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U.S. Department of Justice
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Office of Juvenile Justice and Delinquency Prevention

Reports of the National Juvenile Justice Assessment Centers

A Preliminary National Assessment of Child Abuse and Neglect and The Juvenile Justice System:

The Shadows of Distress

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U.S. Department of Justice
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National Institute for Juvenile Justice and Delinquency Prevention

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A Preliminary National Assessment of Child Abuse and Neglect and The Juvenile Justice System:

The Shadows of Distress

by
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April 1980

best copy available

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FOREWORD

The National Institute for Juvenile Justice and Delinquency Prevention established an Assessment Center Program in 1976 to partially fulfill the mandate of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, to collect and synthesize knowledge and information from available literature on all aspects of juvenile delinquency.

This report is a preliminary national assessment of child abuse and neglect and the juvenile justice system which should provide an improved basis for the development of effective policies and programs.

The assessment efforts are not designed to be complete statements in a particular area. Rather, they are intended to reflect the state-of-knowledge at a particular time, including gaps in available information or understanding. Each successive assessment report then may provide more general insight on a cumulative basis when compared to other reports.

Due to differences in definitions and the lack of a readily available body of information, the assessment efforts have been difficult. In spite of such complexity, the persons who participated in the preparation of this report are to be commended for their contribution to the body of knowledge.

James C. Howell, Director
National Institute for Juvenile Justice and Delinquency Prevention

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The principal writer for this volume is David J. Berkman. In addition, significant assistance in the development of the volume, particularly in the commingling area, was provided by Warren M. Fraser. General design, management, and technical editing was provided by David J. Berkman and Charles P. Smith.

Peter Garabedian had primary responsibility for drafting a paper on the linkage between child abuse, neglect, and delinquency (contained in Appendix C); and Ray Marks developed a paper on legal processing issues (contained in Appendix B). Bette Caminez assisted by providing background in the program area; and Sheldon Messinger provided consultation with the conceptual aspects of the working papers. Eli H. Newberger and Bruce Fisher served as technical reviewers for the report. Administrative editing and production were done by Dorothy O'Neil, Paula Emison, and Andrea Marrs.

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PREFACE

As part of the Assessment Center Program of the National Institute for Juvenile Justice and Delinquency Prevention, topical centers were established to assess delinquency prevention (University of Washington), the juvenile justice system (American Justice Institute) and alternatives to the juvenile justice system (University of Chicago). In addition, a fourth assessment center was established at the National Council on Crime and Delinquency to integrate the work of the three topical centers.

This report on "A Preliminary National Assessment of Child Abuse and Neglect and the Juvenile Justice System: The Shadows of Distress" is a preliminary assessment to identify and discuss the major issues, problems, and needs of child abuse and neglect in relation to the juvenile justice system.

Other work of the American Justice Institute as part of the National Juvenile Justice System Assessment Center includes reports on the classification and disposition of juveniles, the status offender, and serious juvenile crime.

In spite of the limitations of these reports, each should be viewed as an appropriate beginning in the establishment of a better framework and baseline of information for understanding and action by policymakers, operational personnel, researchers and the public on how the juvenile justice system can contribute to desired child development and control.

Charles P. Smith, Director
National Juvenile Justice System Assessment Center

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EXECUTIVE SUMMARY

This report is a preliminary national assessment of child abuse, neglect, and the juvenile justice system. The objective of the report is to review the current state of knowledge in order to present the major issues, problems, and needs of child abuse and neglect in relation to the juvenile justice system and to suggest future endeavors in the area. Although this paper is extremely limited in scope and resources, it can begin to provide a perspective on the major issues, problems, and needs for appropriate organizations or individuals. It is beyond the scope of this report to fully and critically assess the methodology and research designs of each of the studies discussed. That task may be completed in subsequent reports.

One of the major findings of this review is that child abuse and neglect is a complex and multi-faceted problem, integrally related to many other social problems. Based upon this finding, policymakers need to return to basic theoretical issues in determining effective approaches to intervention and treatment. In order to further this effort, the report addresses selected areas related to the linkage between child abuse, neglect, and juvenile delinquency; the legal processing issues; and the issue of commingling abused and neglected juveniles with other juveniles in need of service. Background papers on child abuse, neglect, and juvenile delinquency and legal processing issues can be found in the appendix of this report. The following is a general summary of each of these focal areas.

The Linkage Question

An examination of the linkage between child abuse, neglect, and delinquency needs to consider three levels of linkage--the link which emerges from a historical perspective of the handling of child abuse and neglect cases and juveniles who are officially labeled delinquents, the causal linkage between having been abused or neglected and subsequently becoming delinquent, and the linkage which is created as a result of the adjudication of abused and neglected children as delinquents or status offenders. Taken together, these perspectives strongly suggest that an interrelationship between child abuse, neglect, and delinquency is significant and needs to be considered in determining policy and action programs.

Legal Processing

Looking at the formal responses to child abuse and neglect from the legal processing perspective has highlighted many specific types of system intervention that contribute little to improved knowledge of child abuse and neglect. Several negative implications are identified in the literature which emerge from the exercise and non-exercise of coercive legal authority upon efforts to remediate child abuse and neglect. In addition, the lack of a cohesive national policy toward justice system handling of child abuse and neglect has had negative impacts in such areas as reporting and record-keeping laws, criminal justice intervention responses to parental or guardian abuse and neglect, and juvenile justice intervention to protect the child or juvenile. It has also contributed to the present ambiguity in regard to the State's role in reference to children's rights issues.

Commingling

The question as to the extent to which residential commingling of abused and neglected children presents a significant national problem cannot be conclusively answered from presently available data. Nevertheless, it would be useful to clarify and separate the issue of commingling in relation to deinstitutionalization and utilize the already operational programs and monitoring mechanisms developed on the State level to gather data on abused, neglected, and dependent children in custody or care facilities. From another perspective, the issue of commingling has implications which go beyond statistical collection and analysis. From a policy and program perspective, the issue of commingling suggests that the juvenile justice system must come to terms with the need to ensure that children are identified and dealt with on the basis of service needs rather than symptomatic behavior, and that adequate resources for appropriate placement alternatives exist so that needs which are identified can be met.

Federal Efforts in Child Abuse and Neglect

The U.S. Law Enforcement Assistance Administration (LEAA) has already initiated a program in the child abuse and neglect area through its family violence program and the National Institute of Juvenile Justice and Delinquency Prevention (NIJJDP) has funded a comprehensive evaluation of the program. This effort and other Federal programs should continue and take into consideration the following three major initiatives:

- The coordination of Federal efforts directed toward families in crisis is a major priority. The separate programs which are now directed at specific social problems need to be redirected and coordinated to target and support the family, rather than limit its efforts toward a particular problem.
- The critical need for expanding and upgrading the level of knowledge and sensitivity of State and local level policymakers and practitioners to the complex problems of child abuse and neglect in relation to the justice system needs to be addressed. A major training and information dissemination program should be developed and implemented which targets three major audiences: (1) State level policymakers, (2) operational personnel in the justice system, and (3) community social service agencies and their personnel.
- Future research in child abuse and neglect needs to direct its attention to developing a sound theoretical base for determining action, focusing upon an integration

of strategies and programs for families in crisis. In addition, special attention should be given to studying the operations and activities of the justice system and community agencies which appear to be operating more as a "shadow system" than one with clearly defined and visible accountability.

In conclusion, the many assumptions, perspectives, and efforts regarding child abuse and neglect to date need to be reconsidered in light of their failure to address the complex problems and underlying causes of child abuse and neglect. Furthermore, approaches to the problem of child abuse and neglect must address the interrelationship of the problem to other social problems and focus their efforts upon the family in crisis, rather than particular symptoms of the crisis. Without a major redirection of focus and effort, the suffering of millions of juveniles, who are victims of abuse and neglect, will continue. Without receiving the needed attention and services they require, their plight will remain in the shadows of distress.

INTRODUCTION

Child abuse and neglect is a serious social problem in the United States. The nonaccidental emotional or physical injury to an individual under 18 by a parent or guardian generally constitutes the act of abuse. The deliberate failure to meet the physical and psychological needs of the child is generally regarded as neglect (although the degree of failure and deliberateness to meet the child's needs are generally imprecisely defined). Controversies over the appropriate definition of abuse and neglect influence all efforts to deal with the problem, including a reliable determination of the frequency and type of its incidence. In addition, present information on the extent of child abuse and neglect varies considerably depending upon definitions, methods, sources, and perspectives taken by the data collector. Due to these limitations, national estimates of child abuse vary from 40,000 actual cases of reported abuse in 1973 to 167,000 cases estimated as reported in 1972-73 to 1.5 million children viewed as "vulnerable"* to physical injury by violence in 1975 (56, p. 8). The incidents of neglect are estimated to be considerably more numerous than abuse. In an interview, Cain suggests as much as an 8:1 ratio of neglect to abuse cases; however, if abandonment is included in the neglect estimates, the ratio would increase to 10:1 (12).

In addition to problems of definition and incidence, an understanding of the causes and effects of child abuse and neglect is complex. Other social problems such as delinquency, drug addiction, alcoholism, and family dysfunction are being seen as related to child abuse and neglect. It is also becoming clear that efforts to remedy the problem will have to be as varied as the problem itself.

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*Gelles employed a broad definition of violence ranging from a slap to murder and found that violence is a common phenomenon in parent-child relationships which increases the "vulnerability" of children to abuse and neglect. The 1.5 million figure is a projection based upon this high rate of vulnerability and a small sample of cases.

The present level of public attention on child abuse and neglect is relatively recent. The physical and emotional abuse or neglect of children by their parents or guardians represents a painful paradox to a society which places a high value on the welfare of its children and the integrity of families. Yet the repugnancy of identifying and dealing with child abuse and neglect has generally created a reluctance of society to fully recognize the extent of the problem. The recent emphasis on children's rights has tended to focus increased public attention on the problem of child abuse and neglect.

Even professionals who have direct daily contact with children have been reluctant to recognize the extent of child abuse and neglect. The major momentum for supporting the existence of the problem can trace its origins to the work of a pediatric radiologist in 1946. Caffey published his findings that subdural hematoma and fractures of the long bones often occur together in infants, and the common denominator of both types of injury might be accidental or willful trauma inflicted by the parents (10). Unfortunately, Caffey's article and findings were not widely considered or accepted, but it did stimulate other radiologists and pediatricians to consider their own observations in light of willful parental trauma.

Since 1946, the literature on child abuse and neglect has increased and broadened. Starting from a diagnostic orientation focusing upon physical injuries, subsequent issues related to definitions, incidence, causes, and treatment have been studied and discussed. Early treatment literature focused upon the parents and gradually, along with the consideration of the long-term effects of abuse and neglect, shifted more toward a concern with the treatment of the child. More recently, attention is being focused upon the interactions of the family unit. The legal profession has essentially focused upon the significance of parental and children's rights in relation to reporting procedures and due process requirements.

Early child abuse and neglect literature also tended to focus upon the physical abuse of young children (birth to five years); however, more recent attention has included (a) emotional abuse and neglect, and (b) adolescent abuse and neglect. This broadening of scope in relation to child abuse and neglect to include older children has increased the significance of considering the long-term physical and psychological effects of abuse and neglect, as well as its behavioral outcomes. Research is beginning to suggest that persons who have been abused or neglected as a child may be more likely to become delinquents, runaways, or adult criminals, to have learning or behavioral problems in school, or to become abusing or neglecting parents. Research in this area is in need of further elaboration and development. However, what little is available tends to lend limited support to the concept that abused or neglected children either disproportionately become problems for society or continue to require supportive services as a result of their inability to overcome their childhood traumas or deficiencies.

National Juvenile Justice System Assessment Center Efforts in Child Abuse

The National Juvenile Justice System Assessment Center (NJJSAC) has been developing an information resource in child abuse and neglect since the middle of 1978. Literature and statistical materials have been gathered and organized. In addition, these materials have been assessed as to their relevance toward identifying and understanding the many issues, problems, and needs of the juvenile justice system.

NJJSAC staff have also interacted with child abuse and neglect researchers and practitioners at two major conferences: the URSA Institute Conference on Adolescent Abuse and Neglect in October 1978, and American Humane Society's November 1978 National Symposium on the Abused, Neglected, and Sexually Exploited Child.

Working with consultants representing the disciplines and perspectives of law, social service, and sociology, the following major areas were specifically explored:

- the legal processing issues of child abuse and neglect
- the linkage between child abuse, neglect, and juvenile delinquency
- child abuse and neglect programs
- The issue of commingling abused and neglected juveniles with delinquents and status offenders in facilities and programs.

Mandate in the Child Abuse and Neglect Area to the U.S. Office of Juvenile Justice and Delinquency Prevention

The provisions and spirit of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, lay the foundation for involvement by the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP) in the field of child abuse and neglect in the following areas:

- improving juvenile courts, foster and protective care programs, and shelter facilities to meet the needs of abandoned and dependent children (Section 101.a.3)
- providing assistance to deal with the problems of runaway youth (Section 102.a.7)
- developing and conducting effective programs to prevent juvenile delinquency (Section 102.b.1)
- improving the quality of juvenile justice in the United States (Section 102.b.3)
- assisting States in providing community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster care, shelter care homes, group homes, halfway houses, homemaker and home health services, 24-hour intake screening, volunteer and crisis home programs, day treatment, home probation, and any other designated community-based, diagnostic treatment or rehabilitative service (Section 223.a.10.A)

- assisting States in developing programs stressing activities aimed at improving services for and protecting the rights of youth impacted by the juvenile justice system (Section 223.a.10.D)
- authorizing the National Institute of Juvenile Justice and Delinquency Prevention to prepare studies with respect to the prevention and treatment of juvenile delinquency and related matters, including recommendations designed to promote effective prevention and treatment, such as assessments regarding the role of family violence and sexual abuse or exploitation in delinquency (Section 243.5).

To date, OJJDP has become involved with child abuse and neglect primarily through its evaluative works in the family violence area and its efforts to deinstitutionalize abused and neglected juveniles pursuant to 223(a)(12) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This summary paper will suggest how these efforts and others can provide national assistance and support to better deal with the problem of child abuse and neglect by the juvenile justice system.

Considering the complexity of the problem of child abuse and neglect and the many different perceptions and concerns of persons involved in dealing with the problem, the present summary of the literature and research should be considered preliminary and reflective only of some of the major emerging issues, problems, and needs. Although data collection efforts included a broad sweep of the available literature, this summary paper will attempt to focus upon the problem of child abuse and neglect in relation to the juvenile justice system. In order to present this perspective, some general background materials will be presented so that they can be drawn upon to suggest some of the major issues, problems, and needs of the juvenile justice system in relation to child abuse and neglect. It is important to note that the quality and availability of empirical findings in this area has improved in recent years; however, a review of these materials still tends to raise more questions than it can answer. Much of the literature in the juvenile justice system area advocates a particular position in relation to child abuse and neglect based on values, general impressions, or the discipline of the writer rather than supported empirical data. Therefore, the intention of this summary is to indicate the progress of NJJSAC assessment efforts and provide OJJDP with information which will be useful in determining future efforts in this area.

A SUMMARY OF MAJOR CHILD ABUSE AND NEGLECT RESEARCH

This section will briefly discuss some of the major child abuse and neglect research findings in order to provide a general background for a discussion of the four major areas assessed by the National Juvenile Justice System Assessment Center. The following research areas will be summarized:

- definitions of child abuse and neglect
- incidence of child abuse and neglect
- characteristics of abused and neglected children, their parents, and environmental situations which tend to increase the incidence of abuse and neglect
- effects of abuse and neglect upon the child.

Definitions of Child Abuse and Neglect

One of the most problematic areas in the field of child abuse and neglect is that of definition. The wide variety of definitions--legal, sociological, medical, and psychological--impact upon every aspect of the problem. Generally, the purpose and theoretical frame of reference for the researcher or practitioner influences the type of definition used. Three basic theoretical orientations tend to be used in the literature, each focusing upon a different dimension of the problem:

- outcome for the child (31)
- intent of the perpetrator, e.g., was the abuse intentional, or a nonaccidental act of omission or commission upon the part of a parent or other caretaker interacting

with a child, aimed at hurting, injuring, or destroying the child (24)

- the perception of the observer, including the possible presence of cultural bias (22).

A study by Johnson (43) considered the impact of various definitions of child abuse and neglect upon operations and reporting. Johnson suggests that there are four major reasons given in the literature for the definitional disagreements:

- psychodynamic reasons--psychological denial and avoidance of the abuse and neglect label by the observer because of psychological discomfort with the behavior
- sociocultural pluralism--abuse and neglect are viewed in culturally relative terms and thus subject to various social values which change over time and vary within different segments of society
- differing professional work settings--the work setting of professionals tends to influence their perceptions of behavior and thus affects the definition they apply to the behavior
- lack of knowledge in child development--the lack of reliable knowledge of the facts which impair children's development results in a lack of specificity of the definitions of behavior.

As one can see, definitions of child abuse and neglect are based upon different approaches or perceptions of the problems often effected by various biases. Unfortunately, the problem of definition remains a great handicap to the practitioner as well as to the researcher. Although it is beyond the scope of this summary paper to resolve or fully explore all the dimensions and issues related to definitions, some of the influences of unresolved definitional problems will become more evident as the discussion progresses.

Incidence of Child Abuse and Neglect

Abuse

Efforts to determine the prevalence of child abuse in the U.S. during a specified period of time have been generally unsuccessful for a number of reasons. Due to the great variance in reporting laws, legal definitions of child abuse and neglect, and wide variation in data collection methods, statistical measures of the incidence of child abuse and neglect are presently unreliable. Increased public and professional awareness of the problem, as well as enforcement of reporting mandates, does not permit reliable trend analysis. In addition to problems with data collection, the difficulty in detecting or proving acts of abuse and neglect tends to confound efforts to develop a reliable method for determining the national incidence of child abuse. Therefore, to date, incidence data on child abuse and neglect must be considered as estimates rather than reliable indicators of the occurrence of the behavior. Table 1 (p. 9) clearly indicates the wide range of abuse and neglect estimates and the diverse sources of these estimates. The degree of specificity of the measurement criteria can be seen as an important factor influencing the reported incidence.

The first national incidence study of abuse was conducted by Gil (24) working with the National Opinion Research Center in 1965. Gil used a self-report approach to developing a national incidence rate. Approximately 1,520 respondents were asked if they personally knew families involved in incidents of child abuse resulting in physical injury during the 12 months preceding the interview. Responses indicated an upper limit of 4.1 million national cases of child abuse; however, when respondents were asked if they themselves had physically injured a child at one time (not limited to the previous 12 months), an estimate of 2.5 million cases was developed.

Table 1

Comparison of National Estimates of the Extent of Abuse, 1962-1975

Measurement Criteria	Estimate of Incidence	Origin of Data	Reference
Abuse, not further specified	662	Newspaper accounts, 1962 data	De Francis, V. (1963)
Abuse, not further specified	302	71 hospitals, 1962 data	Kempe, et al. (1962)
Abuse, not further specified	447	77 district attorneys, 1962 data	Kempe, et al. (1962)
Abuse that resulted in some degree of injury	2,500,000-4,070,000	National survey, 1965 data	Gil (1970)
Serious injury by non-accidental means	10,000-15,000	1966 data, no source given	Helfer & Pollack (1968)
Abuse that resulted in some degree of injury	6,617	Central registries, nationwide, 1968 data	Gil (1970)
Reported abuse	60,000	Additive estimate, based on cases reported in Denver and New York City, 1972 data	Kempe & Helfer (1972)
Reported abuse	41,104	Official reporting systems from 10 largest states, 1973 data	Cohen & Sussman (1975)
Reported abuse	167,000	Agency survey, 1972-1973 data	Nagi (1975)
Abuse, not reported	91,000	Difference between projections from rate of reports in Florida and rate from agency survey, 1972-1973 data	Nagi (1975)
Parent-to-child violence	1,400,000-1,900,000	Household survey, 1975 data	Gelles (1977)

Source: 1977 Analysis of Child Abuse and Neglect Research, Table 2, p. 9. (U.S. Department of Health, Education, and Welfare, National Center on Child Abuse and Neglect, January 1978)

Gil's data has generally been regarded as an overestimate of the problem, since respondents probably used an imprecise definition of abuse and many of these incidents were never officially reported. Light (34) reanalyzed Gil's data and derived a lower estimate of 124,000 abusive families. Considering that these families may abuse more than one child, it is estimated that between 200,000 and 500,000 children are probably abused each year. Further, the same child may be abused more than once each year.

More recent attempts to estimate a national incidence of child abuse using data from two cities and projecting it for a national incidence rate was done by Kempe and Helfer (32). Projecting 1972 data for New York City and Denver indicated that approximately 60,000 cases of child abuse occur nationally. Dr. Vincent De Francis, prior director of the Children's Division of the American Humane Association, would consider such estimates conservative. De Francis estimates 30,000-40,000 cases of "truly battered children," at least 100,000 children sexually abused each year, and 200,000-300,000 children psychologically abused each year (cited in 13). Fontana, on the other hand, estimates the incidence of abuse for the year 1972 as 1.5 million cases (cited in 34).

It should be noted that these studies used unspecified or imprecise definitions of abuse and often failed to describe their methodological approach. Therefore, these estimates should be used with caution.

The most recent data on abuse is from a national study of official neglect and abuse reporting conducted by the American Humane Association (55). This study used statistical information on officially reported cases from 28 participating States and three U.S. Territories for the year 1976. Prevalence data was collected on validated and non-validated reported cases of abuse, neglect, and the aggregate abuse and neglect.

A total of 99,579 cases of abuse and neglect were reported by the participating States; however, 53 percent of these cases were not validated. This percentage indicates the significance of the issue of validating national data on child abuse and neglect. The definition of a "validated" case varies nationally; in some instances it means the case had been adjudicated; in others it means the social worker has determined that a case file has been created for the family; still in others it means that the reported incident did actually take place.

Neglect

Although national data on neglect is no better than data on abuse, and suffers from the same definitional and methodological deficiencies, it is generally agreed that neglect occurs more often. Cohen and Sussman (13) cite a ratio of 6:1 neglect to abuse; however, Polansky, Borgman, and De Saix (41), analyzing data from the first 18 months of Florida's new reporting system, revealed more than a 3:1 ratio. Burt and Blair (cited in 62) cited a 9:1 ratio using neglect and dependency petitions for Nashville and Davidson County, Tennessee.

Nagi (37) estimated 432,000 cases of neglect reported in 1972-73 in the U.S. and 234,000 cases as not reported. Light (34) estimated a national figure of 465,000 cases of neglect and other maltreated incidents, excluding abuse.

Problems with Abuse and Neglect Estimates

Therefore, national estimates of the incidences of child abuse and neglect are confusing and often contradictory. According to the 1977 Analysis of Child Abuse and Neglect Research, the wide discrepancy in estimates may be attributed to a number of causes, most of which are related to the types of data sources used for activity incidence rates and the variation in definitions and awareness of the child abuse and neglect problem. Table 2 (p. 12) summarizes the problems with developing national estimates of child abuse and neglect (56).

Table 2

Factors Affecting Discrepancies in Determining A National Rate of Abuse and Neglect Incidents

FACTOR	DESCRIPTION
Accuracy of detection	Reluctance of persons to report child abuse and neglect to authorities. Lack of central reporting which permits hospital "hopping" by the parents.
Public and professional awareness	Awareness of the problem is increasing; however, more training and education of public and professionals is needed.
Degree of enforcement	States inadequately enforce reporting statutes. Also, there is great variation in reporting laws themselves.
Reporting bias	There is socioeconomic bias in reporting--middle-class cases are less likely than lower-class to be reported--because private doctors are reluctant to report, agencies are less likely to intervene with affluent families, therefore affluent families can maintain privacy and seclusion, and child welfare becomes viewed as a "poor people's service."
Comparability of statutes	States vary as to definitions of child abuse and neglect. Often child abuse and neglect statutes are difficult to interpret and apply.
Availability of resources	A community's resources influence what is reported. It appears that where there is a high level of need but little resources, fewer cases are reported and generally those reported are the more serious.
Sampling techniques	There is variation in sampling methods and reluctance of respondents to admit behavior that is socially undesirable and illegal.

Source: Table developed by National Juvenile Justice System Assessment Center, 1978

In summary, because of the many problems in obtaining accurate and reliable data on the national incidence of child abuse and neglect and the wide discrepancies in available estimates, it is difficult to have much confidence in even the most recent rates which vary from 40,000 abused children in 1973 to approximately 2 million children "vulnerable to injury" in 1975 (23).

Characteristics of Abused and Neglected Children, Their Parents, and the Situation

According to Helfer (32), there are three major contributing variables in an incident of abuse and neglect:

CHILD + PARENTS + SITUATION = ABUSE

Although this simplification ignores many aspects and dimensions of the problem, research generally focuses on one or more of these variables.

Gradually researchers are becoming aware that no single element can provide a sufficient explanation. In addition, this conception of child abuse is limited, for it does not consider distinctions in chronicity, different types of abuse, variations in situational environments and perpetrators (e.g., institutional abuse v. parental abuse).

Characteristics of Children Prior to the Abuse or Neglect

The following are some of the preliminary theories or findings regarding the characteristics of children prior to being abused.

- The child's history, characteristics, and behavior may contribute to being abused (30).
- Prematurity may be a factor in the infant's level of risk (52).
- The child's behavioral problem preceding the abuse may contribute to the risk of being abused (54,11).
- Abused children exhibited retaliating behavior toward their parents, which appeared to constitute "counter-attack" to the angry parent (54).

- Approximately 5 percent to 10 percent of the infants in the general population may be classified as provocative. The behavior of these children may add extra stress for the parent in caring for these "overactive, demanding, defiant, and exhaustive" children, tending to "paralyze" the self-control of the parent temporarily, thus releasing violent impulses (11).
- Particular phases of the child's development are especially provocative of abuse; however, abuse does not appear to be concentrated at any special developmental phase (26).

Characteristics of Parents

Although much of the research on parental characteristics has been criticized in regard to methodology and definitional deficiencies, the following summarizes some of the theories and research findings regarding characteristics of abusing parents:

- Parents of abused children are typically immature, dependent, impulsive, rigid, self-centered, and rejecting (29).
- Abusing parents come from lower socioeconomic levels (26).
- Parents who abuse their children have personality inadequacies and are impulsive (2).
- Abuse families typically have a high level of stress (18).
- Abusive parents generally lack "mothering skills" (9, 15, 17).
- Alcoholism is an associated factor in a substantial percentage of abuse and neglect cases (53).
- Abusive parents have (1) high expectations of loneliness and isolation, (2) intense feelings of expectation about their children's behavior and levels of performance, (3) poor quality in relationship with their own parents and spouses, and (4) intense feelings of anxiety about their children's behavior (48).

Characteristics of the Situation

Several researchers have begun to identify a relationship between the family social and psychological environment and incidents of abuse and neglect. The following is suggestive in regard to situational dimensions:

- abuse appears to occur more often in families where the resident is located in areas of greater poverty, higher crime rates, lower quality housing, and transient populations which result in a higher level of environmental stress (47).
- Three factors appear to define the situation in which abuse is more likely to occur: a special kind of child; a crisis; and the nature of the parents (e.g., how they were reared, their ability to use the help of others, the quality of the marriage relationship, and how they see the child) (32).

Effects of Abuse and Neglect Upon the Child

When the abuse is physical, the short-term effects are obvious; however, when it is psychological or emotional, the short-term effects are more difficult to determine. A neglected child subjected to a combination of malnutrition and inadequate medical care at vital developmental stages of life may not show immediate effects of the neglect, but rather may suffer gradual and permanent brain damage. Therefore, the longer term effects of abuse and neglect are difficult to determine, especially if the impact is gradual and subtle on the child's behavior and potential for growth and development, both physical and mentally. Unfortunately, studies of the impact of abuse and neglect are just beginning to emerge. Therefore, there has not been sufficient time to evaluate the impact of abuse and neglect over periods of up to 10 years; however, protective service, education, and justice personnel have indicated for many years that they see evidence of abuse and neglect in many of the children they confront in their work. Future research will need to control for socioeconomic status and other demographic factors in order to substantiate the long term effects of abuse and neglect.

A wealth of evidence has been provided by the numerous retrospective studies of abused and neglected children which suggests neurological damage as a common after-effect of abuse (20, 58, 59). Many of these studies indicate a high incidence of mental retardation and language defects in abused and neglected children. It has been suggested that language defects are closely related to other indications of cognitive development and the ability to cope (51). One study reported a ten-fold increase in the group of abused and neglected children of I.Q. scores in the mentally retarded range (below 70), as compared to a control group containing the percentage of mental retardation expected in the general population (46).

Follow-up studies of abused children have described these children in terms of being more stubborn, unresponsive, negativistic, chronically angry, depressed, fearful, apathetic, somber, docile, and placating than nonabused children (46). One study of behavioral and personality characteristics related to aggression found these children to have less overt and "fantasy" aggressive behavior than the control group. In contrast to these findings, Galston (21) reported greater amounts of violent behavior among abused children. This suggests the possible link between abuse and neglect and antisocial or deviant behavior, especially of a violent or aggressive nature.

A study of 100 juvenile offenders in Philadelphia reported a history of abuse in 82 percent of the children (51). A Denver study reported 84 percent of the juveniles who were delinquent had been abused before school age, while 92 percent reported receiving bruises, lacerations, or broken bones inflicted by their parents within one and one-half years previous to their apprehension. A four year follow-up study of 34 cases of abuse from Children's Hospital in Washington, D.C. indicated that 20 percent of the abused children had come to the attention of the court because of delinquency (50).

In addition to the delinquency behavioral outcome of abuse, a study of abusive parents indicated that 14 percent of the mothers and 7 percent of the fathers reported that they were abused as children (24).

Although these preliminary studies suggest some of the short- and long-term effects of abuse and neglect upon physical, mental, and behavioral development, the difficult methodological problems, such as small samples and limited time frames, limit the validity and interpretations that can be made. Generally, the findings from these studies suggest that there is a strong need for more research to examine the long-term effects of abuse and neglect upon the patterns of behavior of these children, especially in relation to delinquency, violence, and the potential for becoming abusing parents.

AN ASSESSMENT OF SELECTED ASPECTS OF CHILD ABUSE AND NEGLECT BY THE NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

This section will summarize the findings of NJJSAC preliminary assessment of child abuse and neglect in areas of legal processing; the link between child abuse, neglect, and delinquency; programs; and the commingling of abused and neglected juveniles with delinquents and status offenders. Preliminary working papers were completed for the linkage and the legal processing areas and can be found in the appendix. Findings from these papers are summarized herein. A discussion of identified needs and specific recommendations will be taken up in the concluding section of this paper.

Legal Processing Issues of Child Abuse and Neglect

Legal processing of child abuse and neglect cases necessarily raises or reflects the inherent tensions and dilemmas represented by both the act of child abuse or the omission of acts in neglect, as well as by the incomplete legislative responses to these behaviors. In the legal processing, in other words, one can see in microcosm some of the deeper conflicts and complexities of the problem.

Depending upon one's position in relation to the daily workings of the justice system in relation to child abuse and neglect (e.g., administrators, legislative planners, social workers, police, prosecutors, medical workers, parents, and children), the legal process of intervention may be seen as fragmented, feeble, or futile. Rational responses are often intermixed with administrative labyrinths and judicial hurdles of due process, especially as coordinated service efforts give way to adversary proceedings.

A comprehensive discussion of the complexity and diversity of the many issues, problems, and needs which emerge from a review of the literature in this area is beyond the scope of this preliminary examination. Although a broad spectrum of literature was reviewed and considered, a selection of the major issues and problems will be briefly highlighted here as extracted from the paper contained in Appendix B.

The Complexity of Formal Social Response to Child Abuse and Neglect

- Formal social response to child abuse is, by definition, complex. Protective impulses are mixed with rehabilitative and retributive impulses. This complexity is reflected in formal processing as the focus shifts between the abused and the abuser, the act of abuse and the context of the abuse. The identity of interests is often blurred as styles of intervention sometimes look to be adversary in character and sometimes look to be service oriented. Sometimes the interest of the child is seen as adverse to the interests of the parents. Sometimes a family unit is perceived or sought. State interest, too, is involved. This interest is by no means simple, as the State, in its parens patriae capacity, seeks both to articulate the child's interest and to define its own role. Questions of representation and voice further confound the formal response to child abuse. Questions of tense are involved too: are we protecting the present child or are we shaping the future adult?

Child Abuse and Neglect Legislation

- At the present time, there is no cohesive and generally accepted policy toward child abuse. There are 51 sets of policies (50 States and the District of Columbia) with county and local variants, each of which take their character from the practical way that a large range of discretion is exercised by the police, the prosecutors, the juvenile court workers, and private and public social welfare workers.
- The incomplete legislative mandate about what is supposed to happen is dangerous. The new wave of child abuse law is premised on legislative findings about the medical nature of the child abuse "problems" and about the appropriateness of preventive and protective social services to remediate the problem. By leaving a gap in the follow-up stages and, consequently, a large range of administrative discretion about the type of response and follow-up, the legislators have created or further sustained a confusion about the appropriate response to child abuse. Even while having a medical or a social service model in mind, the legislators may have unintentionally created a greater opportunity for punitive and other inappropriate response. Increased intake resulting from child abuse incidents coming to the attention of a wide range of law enforcement and other nonsocial service personnel, who are not directed as to what they should do, seems to assure the increased probability of inappropriate or ineffective response. The very measured responses sought by the legislatures in their eagerness to respond to the specific indication of the "battered child syndrome" in the 1960's is defeated by the incomplete nature of the legislative mandate. Efforts directed at identification and reporting of child abuse and neglect will not insure that appropriate treatment will be delivered. Legislators need to consider appropriate service and handling of these cases as well as its identification and reporting.

Child Abuse and Neglect Reporting Laws

- Child abuse and neglect reporting laws, for the most part, break down once the report has been made. This is due principally to a faulty or incomplete legislative mandate. The reports are somehow viewed as either self-executing or, magically, as ends in themselves. The most that is usually required is an investigation. The rest is discretionary. There is usually no mandatory docketing, screening, or monitoring mechanism. Therefore, there is little accountability to ensure that something is actually done for the child or the parents.
- Few states limit access to only the potential reporter group. Therefore, something more than diagnosis is invited. Further, as law enforcement, social service, and juvenile justice personnel have access, the uses that can be made of these reports, notwithstanding their probable inadmissibility in formal judicial hearings, are as broad as the undirected discretion of such personnel. The reports--taken as a whole--can be used to tailor a plan for positive intervention for a specific family, to coerce "cooperation" from the parents, or as the occasion to infer criminal intent. The fact that little by way of safeguards has been added to test the reliability of the report, to allow the evaluation or investigation of the report to catch up with the report in various registries, to expunge spurious reports, or to limit access invites considerable abuse of individual rights and increases the probability of inappropriate response.
- The conflict felt by the reporters and their evidenced distrust of formal legal intervention into child abuse cases undoubtedly results in substantial underreporting of noticed or suggested child abuse. A vast majority

of the States make reporting mandatory. Hence, conflict between the medical worker's and the legal system's handling of child abuse cases is heightened.

Child Abuse and Neglect and the Criminal Justice System

- Criminal justice treatment of child abusers remains substantially unchanged in the recent wave of child abuse legislation. Some states have modified their substantive law to more particularly deal with harm to children. But mainly the substantive law base that is brought to bear on abusing parents are the State's criminal code provisions for murder, mayhem, assault, rape, and child molestation. The difficulties with criminal prosecution in child abuse cases lie not in the substantive law base. They lie in the inappropriateness of the "remedy" and the evidentiary and testimonial problems encountered in such cases. Most legal and non-legal commentators alike agree that a criminal law response is inappropriate, mainly because it does nothing for the child and is, in many instances, a positive harm to the child because the victim-child must testify against the accused parent. The legal commentators, for the most part, however, are unwilling to altogether remove the possibility of criminal justice response to child abuse, recognizing that the difference in dimension and level of response gives vent to political pressure, community outrage, and those ever-present impulses to exemplify by the transgressions of others and to retaliate in extreme cases. More attention will need to be focused on minimizing the negative impact upon the child victim or witness in these proceedings. Perhaps more consideration should be given to programs such as Harborview Hospital Sexual Assault Victim-Witness Project (Seattle, Washington) which can be expanded to other types of abuse and neglect and replicated in other jurisdictions.

- The arguments about due process are, to a great extent, a distraction from the real issues. The juvenile court has no more and no less resources for positive intervention in child abuse than exist in the community. All of the modes of treatment which are available to the community before formal intervention are available after, and indeed are the range of choices most frequently utilized by the juvenile court in cooperation with the social service agencies, first during the pre-filing screening stage and later in the dispositional recommendations. The retention of due process assurances in juvenile court hearings reflects realistic suspicions about what resources are truly available and used in the community for the moderation of child abuse. For the most part, except for separation of children from their homes, the court serves as a coordinator and a coercive applier of alternatives for resolution available elsewhere, as well as protecting children and their families from potential abuses of the "helping services" and inappropriate labeling of abuse or neglect.
- Due process guarantees can be viewed in a positive manner as a safeguard of not only the rights of individuals, in the extreme, but of the reality of the benevolent intent of intervention and as a balancing mechanism between the seriousness of the injuries perceived and the seriousness of the remedies applied.
- The original unity of jurisdiction of juvenile courts held together by the unity of protective service goals has gradually become separated into delinquency jurisdiction on the one hand, and dependency and neglect jurisdiction on the other. As this happened, the objectives of intervention and its focus became

blurred--victims became the guilty parties. Intervention, under these circumstances, could be seen to have consequences that were reckoned in terms of rights and immunities. A breakdown in the social welfare approach to the family, family tensions, and family pathology is being signalled.

- The side effects of professionalism and bureaucratic jealousies may be affecting the process. The juvenile court primarily depends on the social work community for the functions of intake, screening, and disposition. This fact, however, is overlooked even by the social welfare agencies involved with the court. Control issues and jealousies over jurisdiction, more than issues of competence, workability, or the possibility of coordination, seem to dictate the terms of this perceived problem.
- Historically, the juvenile court has required and received a high level of cooperation between workers in the juvenile justice system and those in the social welfare community. There is heavy dependence on social welfare inputs at the intake, screening, and dispositional stages. And, interestingly, neither the court nor juvenile justice workers are generally viewed with suspicion by the welfare community in regard to their intake functions. This is probably because the welfare worker, up to the point of referral, retains both control and the capacity to supervise a resolution or amelioration of the problem or "case." It is only after referral and after assertion of wardship jurisdiction that the welfare community voices a disagreement with the methods and results of the juvenile justice process, although paradoxically the welfare worker has contributed equally.

Guardian Ad Litem (The Child Advocate)

- A promising innovation in child abuse and neglect proceedings is the Guardian Ad Litem program. Under such a program, the legal process can help assure that the rights and needs of the child are represented, for a guardian ad litem (or child's advocate) at each stage of the proceeding can ask for the child the question: What are you going to do for me? This question seems only to relate to disposition and plans for disposition. But it actually can go further than that. It can relate to plans for intervention, in the first instance, to mobilization of both formal and informal community resources, and to a testing of the intent, direction, spirit, and reality of each stage of intervention. However, shaping the efficacy of any child abuse policy is not a set of questions about rights, but a set of answers to questions asked for the child by the guardian: What is our intent for the child, what can be done for the child, and, what has been done to or for the child? *In re Gault*, 387 U.S. 1 (1967), is a beacon of this problem. There, the Court seems to suggest that if the intended benevolent treatment of delinquents had, in fact, been delivered, the Supreme Court would have tolerated substantial departures from traditional process guarantees. Here, too, simplification lies not so much in the promise of conception as it does in the promise of hard data about the plans and results of well-meaning intervention. At one level, research is needed to broadly ask the questions. At another level, a guardian can ask the same questions and receive the same assurances for a particular child. Further work is needed in regard to the use of juvenile advocates for many questions and issues need to be answered regarding the Guardian Ad Litem, e.g., is it necessary for the guardian to be an attorney or can a child abuse and neglect professional better serve the role as advocate?

Historically, a guardian ad litem was appointed by the court to represent a child named as a defendant. Therefore, the guardian assumed an adversarial role. Today, the role of the guardian is not technically adversarial. The court may appoint a guardian ad litem to promote and to protect the child's interests; however, the court still maintains ultimate responsibility for the child's protection. There is a special symbolic relationship. On one hand, the guardian is temporarily appointed to protect the child's interests. It is the obligation of the guardian to do everything within his or her power to carry out this task. On the other hand, it is the court's obligation to insure that the guardian ad litem actively protects and promotes the child's best interests. If the guardian does not fulfill this obligation to the child, the guardian may be punished and held responsible for any damages sustained by the child.*

The Link Between Child Abuse, Neglect, and Delinquency

The link between child abuse, neglect, and delinquency will be approached from three perspectives: (1) the historical perspective which indicates a long precedent for dealing with abused and neglected children within the juvenile justice system, (2) an empirical perspective which suggests a causal relationship between abuse, neglect, and delinquency, and (3) a system perspective which considers the effect of labeling of abused and neglected children who have contact with the juvenile justice system and their adjudication as "status offenders" or "juvenile delinquents." (Further discussion of this area can be found in the working paper in Appendix C).

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*See Brian G. Fraser, "Independent Representation for the Abused and Neglected Child: The Guardian Ad Litem," California Western Law Review,13 (1976-77), pp. 16-45.

The Linkage from a Historical Perspective

The link between child abuse, neglect, and the juvenile justice system first started to be forged with the rise of houses of refuge in the middle 1820's and the establishment of the first juvenile court in Illinois. The close connections, historically, between these problems and the juvenile justice system clearly provide a de` facto basis for interest of OJJDP in the area of neglected and abused children who are abused or neglected by their parents or guardians, as well as their caretakers in institutions.

Houses of refuge emerged as the new nation began to experience urban-industrial growth (28, 36, 44). The economy was shifting from mercantile to industrial capitalism. The shift would have a profound effect on family life in America. During the colonial period, families were self-contained economic and social units. Parents had clear guidelines for childrearing. Children were viewed as sinful beings who were to be made over into adults as quickly as possible (16, pp. 131-144; 28, pp. 12-20; 42; 45, Chapter 1). Children were to be disciplined by harsh methods. Because they were seen as property, there was little concern over their physical or emotional well-being. Parents who were unwilling or unable to train their children had them placed in other families for "proper" discipline and training.

With urban-industrial growth in the Jacksonian Period, the pace of immigration quickened. Large numbers of Irish and German Catholics came to America's shores, bringing with them lifestyles that were offensive to predominantly Protestant aristocracy (see, for example, 27). A new class of persons appeared in American society--the urban poor. These people came to be called the "dangerous classes" because they threatened the traditional American institutions of the church and family. Family life in the "dangerous classes" was thought to be lax and undisciplined. The parents were supposedly either unwilling or unable to rear and discipline their children in conformance with colonial childrearing techniques. Their children, wandering aimlessly on city streets, came to be a common sight. Concern grew over the plight of these neglected children and the inability of their families to rear them properly (see, for example, 6).

Neglect statutes and the rise of houses of refuge were a direct response to these concerns (40). Although these institutions were originally privately endowed, they soon became public institutions. Hence, first signs of State intervention and a link between the juvenile justice system and neglected children began to emerge. State neglect statutes soon began to provide houses of refuge with the legal authority to intervene in neglectful and abusive home situations and transplant children into a well controlled and well disciplined environment for "proper upbringing." Although the constitutionality of the early neglect statutes was challenged, the laws prevailed for many decades, and the States made little or no distinction between neglected and delinquent children. Both were confined in houses of refuge, and behavior patterns of neglected children were seen as a prelude to juvenile delinquency (40, p. 311).

Another development that underscored the link between abuse, neglect, and the juvenile justice system was the emergence of societies for the prevention of cruelty to children (6). While these societies were not juvenile justice agencies as such, they did serve as major gateways or referral sources for the houses of refuge. These societies began to appear in the 1870's after a number of child abuse and neglect cases came to the attention of concerned citizens. They directed much of their attention toward abusive foster homes and employers of children (8).

The link between child abuse, neglect, and the juvenile justice system, which is the basis for present processing of these children through the courts, was forged with the creation of the juvenile court in 1899. The juvenile court institutionalized the concept of legal immaturity of children and the weakness of the family to function adequately in this area (38, p. 12). For the first time, a special court was created to process not only delinquent youth, but neglected and dependent children as well. These children could be referred to the court by "any reputable person" (38, p. 14).

The establishment of the juvenile court represented an extension of the power of the State to intervene into situations of family breakdown and to take neglected and dependent children out of these disorganized families and place them into well-regulated institutional settings (40). On at least one very significant level, there is this significant link between the juvenile justice system and abused and neglected children. It is a link that was created by the State itself. While the de facto nature of the link does not necessarily justify its continued recognition as a valid basis for policy formulation, the reality of its impact on both abused and neglected children and juvenile justice system operations cannot be denied.

The Empirical Perspective

Some of the major empirical studies of the linkage between child abuse, neglect, and delinquency will be discussed, and a preliminary assessment will be presented. The following studies offer some insight into the question of linkage.

A Study of the Relationship Between Child Abuse and Neglect and Later Socially Deviant Behavior (39)

Design

A study by Alfaro employed two samples of juveniles selected from juvenile populations from eight counties in New York. The first sample of 4,301 juveniles was drawn from all cases of abuse or neglect referred to all public and private child protective agencies in the respective counties during 1952 and 1953. Each sample case was retrospectively followed over a 20-year period in order to examine the number of juvenile court contacts made in each case. Probation intake and juvenile court records were studied to determine which of the sampled cases had subsequent contacts. Therefore, the first sample cases were selected on the basis of an initial child abuse and neglect contact, and followed to determine how many eventually ended up in juvenile intake or court. The second sample was drawn from cases from the same counties; however, cases were selected from a universe of all cases referred to probation intake and juvenile courts for the period 1971-1972. These cases were retrospectively traced over a 20-year period to determine whether there had been prior referrals for abuse or neglect. The two samples were distinct, e.g., they contained different cases.

Findings

The first of 4,301 children consisted of 1,423 different families. Of this group, 740 children or 17 percent had at least one subsequent contact with the juvenile court for delinquency and/or ungovernability (status offenses). The second sample indicated a stronger linkage between child abuse, neglect, and delinquency. During the period 1971-1972, 1,963 juveniles had been referred to the juvenile courts and probation intake in the sampled counties. It was found that of this group, 447, or 23 percent, had prior contacts with child protective agencies for child abuse or neglect.

Discussion

Alfaro's study does suggest a relationship between child abuse, neglect, and delinquency although it is clear that the linkage is not overwhelming. In both samples, the majority of juveniles either do not become delinquent or, if delinquent, do not have prior official records of being abused or neglected. Therefore, while Alfaro's data suggest a relationship, the lack of a control group for both samples and other methodological problems limit the conclusions that can be drawn. Whether having been abused or neglected increases the likelihood (as compared to not having been abused or neglected) that the juvenile will become delinquent is not well substantiated.

A Study of Delinquency Patterns in Maltreated Children and Siblings (5)

Design

This study selected a sample of 5,392 juveniles from those who had been referred to the Arizona State Department of Economic Security for child abuse and neglect for an undisclosed period. The sample cases were then traced to find out how many were subsequently referred to juvenile court.

Findings

The researchers found that 973, or 16 percent of their sample, had been referred to juvenile court.

Discussion

Again, this retrospective study found a part of their sample becoming involved with the juvenile court; however, it is unknown whether this is a higher incidence than can be expected for a control group of juveniles from the same area for the same period of time.

A Longitudinal Study of Juvenile Delinquency (25)

Design

This longitudinal study, conducted by the Gluecks, sampled 500 delinquent boys from Massachusetts' two juvenile institutions and a control group of 500 nondelinquents. The two groups were matched, pair by pair, in terms of age, race, I.Q., and neighborhood of residence. Matching the pairs according to neighborhood ensured that each member of the pair was of similar socioeconomic background and that their families resided in areas with similar rates of juvenile delinquency. Extensive social and family histories were compiled for each of the 1,000 boys over a 20 year period.

Findings

Although the Glueck study did not focus directly upon child abuse and neglect (nor operationally define abuse or neglect), it did collect enough information on the sampled families and subsequent behavior of the boys to provide further insight into the linkage issue. It was found that the families of delinquent boys were twice as likely to be known to social agencies. The various types of social services rendered these families ran almost the entire gamut of social work. These families were also reported more often for child abuse and neglect (86 percent as compared to 44 percent) and for problems of alcoholism, emotional and mental impairment, and criminality.

Discussion

The Glueck Study suggests a linkage between child abuse, neglect, and delinquency. Their findings direct attention to the multi-problem nature of child abuse and neglect families.

A Study of Delinquency, Parental Psychopathology, and Parental Criminology (33)

Design

This study sampled 109 delinquents referred to the juvenile court of New Haven, Connecticut, and a matched sample of 109 nondelinquents from the same area. The 218 sampled cases were then examined for child abuse and neglect reporting to one of the major general hospitals serving that area.

Findings

The researchers found that 8.6 percent of the delinquent sample had reported cases of child abuse and neglect, as compared to 1 percent of the nondelinquents. They also found that 36 percent of the delinquents, as compared to 22 percent of the nondelinquents, required hospital services for head and face trauma.

Discussion

Although this study limited its follow-up investigation for child abuse and neglect to the files of one major hospital and is heavily weighted toward poor families, the difference between the delinquent and nondelinquent sample in regard to child abuse and neglect incidences was statistically significant.

Summary of the Empirical Perspective

The selected studies summarized here, along with the additional studies discussed in the paper in Appendix C, suggest that a linkage exists between child abuse, neglect, and delinquency. Unfortunately, these studies suffer from methodological limitations. Therefore, although a linkage between child abuse, neglect, and juvenile delinquency is not conclusively supported by empirical evidence, the combination of available empirical findings and years of observations of practitioners does strongly suggest a relationship. Further research which explores the dimensions of this relationship using longitudinal and control methods would be able to provide further insights into the types of approaches or therapeutic programs to help diminish the linkage. At the current state of knowledge, it is reasonable to believe that such a relationship is likely to exist. The next major step is to determine what policies, programs, and processing procedures in regard to children who are abused and neglected, or come to official attention as delinquents or status offenders as a result of having been abused or neglected, require modification or change.

Juvenile Justice System Handling

Often, children, and more frequently adolescents, who are abused or neglected can be and are adjudicated as delinquents or status offenders because of the policies and decisions of juvenile justice officials at key points in the system.

The most important aspect of this link is the labeling and adjudication of abused and neglected children and adolescents as status offenders. Although they are referred to the juvenile court because they are victims, they often leave the system being defined as offenders.

Police

The process begins with the police. Even though child protective services are legally mandated to receive and process abuse and neglect cases, many abuse and neglect cases are referred to and investigated by the police.

The police file petitions on a very high proportion of the cases that they investigate. Once the decision to file a petition has been made, the case is forwarded to probation intake. At this point, determinations are made concerning whether to label and process the child or deal with the case informally. One recent study compared the decisions that were made with respect to neglected and non-neglected children who had been referred to probation intake for possible "status offenses" (1). The study was based on 234 children referred from New York County and 126 cases referred from Rockland County, New York. All the cases were processed during 1972. Of the total number of 360 cases, the researchers found that 34 percent were clearly cases of neglect. Males and females were almost equally represented in this group, but there was a disproportionate number of nonwhites represented and a very large proportion coming from single parent homes (1, p. 74).

Intake

The intake departments filed PINS petitions (persons in need of supervision) in 75 percent of the cases of neglected youth, but in only 53 percent of the cases of non-neglected youth. Furthermore, it was found that the charges brought against these youths were invariably related to their attempts to avoid the abuse and neglect they received at home. For example, a disproportionately large number of complaints made against them were "keeping late hours," "having an objectionable boyfriend," "associating with companions objectionable to parents," "avoiding their homes until late hours," and other allegations which reflected conflict with parents and other adults (1, p. 75). Once the decision to file the petition was made, the neglected children were found more likely than the non-neglected youth to be confined in detention facilities until the juvenile court hearing, probably in an effort to protect them from their unsafe home environments. At the juvenile court hearing, the study reported, neglected youth who had been charged with ungovernability or needing supervision were far more likely to be formally adjudicated as status offenders (PINS) than non-neglected youth.

Juvenile Court

From these findings, a significant pattern of system reaction emerges. Neglected children, once they reach the adolescent stage and react to their environmental conditions through avoidance behavior, are more likely to be labeled as status offenders if they are referred to juvenile court. Nowhere is this transformation seen more clearly than in the case of children who run away from home.

The phenomenon of running away from home has long been associated with having problems at home. Children and youth--especially the latter--often run away from home because they perceive their family as abusive or neglectful. However, not all children run away from home because of problems; some do so because they seek adventure. Most of the evidence from available studies indicates that abusive or neglectful family environments induce many adolescents to leave home without informing their parents (19).

However, the decision to leave home frequently results in the juvenile coming into contact with the police and being referred to the juvenile court as a runaway. A recent survey of six States found that runaways comprised a very large percentage (40 percent) of the cases of status offenses referred to intake departments (38, p. 95). Once in intake, runaways are more likely to be confined in detention and more likely to have status offense petitions filed against them resulting in a juvenile court hearing (38, p. 117).

To summarize, the evidence from the studies reviewed, taken together, forms a fairly stable and consistent picture of large numbers of teenagers and preteenagers who attempt to escape from abusive and neglectful family environments by seeking safety and security outside the family. Runaway shelters report a high percentage of their clients as being abused or neglected by their families (19, p. 16). Information from these studies indicates that standard practice for juvenile court is to adjudicate runaways as PINS (status offenders). Once the abused or neglected youth is adjudicated as a status offender, he or she is denied certain types of social services outside the justice system. Nowhere is the link between the processing of abused and neglected children and the assignment of an administrative label (status offender) more clearly seen than in the case of youth who are attempting to avoid an abusive or neglectful family environment. To complicate the situation, the juvenile courts either return these children to their abusive family environments or place them in institutional settings.

Dispositions

The disposition of abused and neglected youth who have been adjudicated as delinquents or status offenders appears to take an ironic turn. Status offenders who have been neglected are far more likely than non-neglected status offenders to be placed in an institutional setting. For example, Andrews and Cohn found that 59 percent of the neglected status offenders, as compared to 44 percent of the non-neglected status offenders, were placed under some sort of regulatory control (1, p. 76). Within these two groups, of those who were committed to juvenile training schools (secure institutions for delinquents), all were neglected youth; of those placed in private institutions, 78 percent were neglected youth; and of those sent to the Division of Youth Camps, 50 percent were neglected youth (1, p. 76).

To further complicate this outcome, abused and neglected youth adjudicated as delinquents or status offenders tend to spend considerably more time in the system compared with children who have been adjudicated delinquents. Recent evidence indicates that abused and neglected children who were also delinquents or status offenders spent on the average almost twice as much time in the system as the other two groups (39).

While it appears that, from an administrative point of view, the harsh treatment of abused and neglected children and youth caught up in the juvenile justice system is perhaps explainable in light of the pragmatic considerations, it can hardly be condoned. Officials who man the system often feel they have no other viable alternatives available to them. Thus, they take the pragmatic approach of filing status offense petitions against abused and neglected children and youth, rather than filing complaints against their parents, since the latter are more difficult and costly to prove. At the same time, the situation is not improved for the abused and neglected youth by being labeled and placed in juvenile institutions. Furthermore, these placements do not relieve or eliminate the underlying problems of abuse and neglect for these youth. Judging from recent accounts of pervasive institutional abuse and neglect, the problem is very likely to be further complicated (64). To be a victim of abuse and neglect at home, and then to become a victim of institutional abuse and neglect, is a clear case of compounding the problem. Some indication of the impact the system has upon these children is revealed by the fact that neglected youth who were labeled as status offenders are more likely to re-enter the juvenile justice system than non-neglected status offenders (1, p. 75).

Therefore, a review of the literature regarding juvenile justice system handling of abused and neglected children and its relationship to the link between child abuse, neglect, and delinquency suggests that a link exists between the formal processing of abused and neglected children and subsequent adjudication of them as delinquents. This is especially evident for status offenders. As discussed above, abused and neglected children are more likely to penetrate the juvenile justice system more deeply and are more likely to be placed in institutional settings where they sometimes are further abused or neglected.

Intervention and Programmatic Effectiveness

Intervention strategies and programs include the delivery of services directed toward the abuser or neglecter in an effort to ameliorate the causes of the behavior and prevent its recurrence, as well as those directed toward the abused or neglected child to terminate the abuse and neglect, remedy or reduce its impact, and prevent long-term negative effects of the behavior upon the child's development and growth. Too often these services tend to be directed to either the guardian (including the parent) or the child, rather than the family as a whole. More recent programs have begun to recognize abuse and neglect as patterns of interaction involving both guardian and child. These programs emphasize the family's needs rather than those of either the guardian or child.

Federal and State legislation and financial resources have expanded the number of child abuse and neglect programs. These programs were established during a period in which there was great attention and energy directed toward the problem of child abuse and neglect, but little reliable knowledge available about the causes and dynamics of abuse and neglect, and even less about what constitutes effective social intervention and treatment or whether it is being delivered. During this period of ambivalence as to what should be done, Congress and State legislatures became committed to at least identifying cases of abuse and neglect and recording these cases in central registers. This emphasis tended to further strain inadequate human services and the legal system in handling these "identified" cases. As Schuchter points out, the initial community reaction to the "identified" case is determined by which agency is mandated to receive reports and the availability of the community to take immediate and emergency action, such as through a 24-hour protective service operation (60, p. 5). Since there is a universal lack of such a service in most communities, law enforcement officers are generally depended on for initial intervention, and there is a subsequent overuse of child removal as a result (60, p. 5). If, on the other hand, child social service workers are able to get involved initially, they tend to avoid police or other justice agencies until they have exhausted all their other alternatives.

Schuchter summarizes a review of the literature in regard to child abuse, neglect, and the justice system as follows:

> Community intervention to deal with child abuse, especially within the legal system, generally lacks any solid relationship to what we know or don't know about the multiple causes and manifestations of child abuse. As the statutory definition of child abuse broadens, community intervention (1) is based on a knowledge base that is extremely limited conceptually, empirically, and methodologically, and (2) increasingly is committed to dealing legally with a myriad of social and economic ills without a commensurate commitment of the resources necessary to meet basic needs for goods and services that facilitate adequate parenting (60, p. 16).

Schuchter's 1976 finding presents a dual problem for the justice system: (1) as the definition of abuse (and neglect) is broadened and the "net is widened," more families will either enter the justice system or receive other types of community intervention; however, (2) the question of what to do once these families are identified becomes intensified.

A review of the literature indicates that there is a large body of information on treatment approaches; however, at the same time, it is generally accepted that no one single approach is sufficient. Most cases of abuse require a full range of services both to relieve the immediate crisis and to provide long-range help. This section will focus upon some of the major findings of a national evaluation of abuse and neglect programs in order to provide a general orientation to program effectiveness (3).

The Evaluation of Child Abuse and Neglect Demonstration Projects, conducted by Berkeley Planning Associates, included 11 community-wide programs which demonstrated a variety of strategies for dealing with the problems of abuse and neglect. Although this evaluation of programs from 1974-1977 provided extensive information on the resources, approaches, and characteristics of families of these programs, this discussion will focus on the evaluation of the treatment approaches. The authors note that their study is limited and their findings only suggestive and not conclusive; however, their findings do provide some insight into the outcomes of treatment. The following are some of the major findings of this evaluation:

- Lay therapy counseling and Parents Anonymous, as part of a treatment package, appear to be more likely to result in positive treatment outcomes (3, p. 95).
- Group services (group therapy, parent education classes) as supplemental services appear to have a notable positive effect, particularly for the physical abuser (3, p. 95).
- Regardless of the type of service strategy pursued, the provision of a service for at least six months helps to ensure a positive outcome (3, p. 96).
- No service strategy worked for all cases or worked with a high level of success (e.g., 80 percent +) for particular kinds of clients (3, p. 103).

- An examination of abused and neglected children at intake indicates that there is no composite picture of the abused or neglected child, but rather a whole series of behaviors and problems for different children (3, p. 107).
- Several factors, including the seriousness of the case at intake, reincidence of abuse and neglect while the child was receiving services, and the length of time in treatment were shown to be poor indicators of how much a child would improve in select problem areas, although nonserious cases have a significantly greater chance to make major improvements in physical problem resolution than do serious cases (3, p. 117).
- There is a critical need for additional research into the treatment-effectiveness as well as cost-effectiveness of different types of services and mixes of services to determine which will have the most impact for specific types of children or specific problems (3, p. 117).

The evaluation also suggested the following subjective factors of child abuse and neglect programs which appear to maximize their success:

- Child abuse or neglect programs are closely affiliated with or housed within public protective service agencies; this would not necessarily hold true for adolescent programs.
- The program participates cooperatively with law enforcement, local schools, hospitals, and private social service agencies in the community in the identification and treatment of abuse and neglect, as well as the education and training of professionals and the general public.
- The program has strong, supportive leadership, a variety of disciplines on the staff, decentralized decision-making, clearly specified rules, but allowance for flexibility of the rules as clients' needs dictate.

- The program stresses certain aspects of case management, including prompt, well planned handling of cases, frequent contact with cases, small caseload sizes, coordination with other service providers, and use of multi-disciplinary review teams and consultant input for the more complex or serious cases.
- The program utilizes more highly trained, experienced workers as case managers, but stresses the use of lay services (lay therapy) or self-help services (Parents Anonymous) in its treatment offerings, as well as 24-hour availability.
- Therapeutic treatment services are provided to the abused and neglected children in families served.
- Case supervision is available to lay workers, particularly during the first few months they are working with a case (3, p. 131).

Therefore, considering the numerous intervention strategies and treatment approaches, it is important to consider what Schuchter notes in "Child Abuse Intervention" (60). He found that a review of the literature up to 1976 provides little information about whether child abuse and neglect intervention--legal, social, medical, mental health--makes any difference in terms of children having been saved from further abuse. To quote Schuchter:

> Most aspects of child abuse intervention in our society appear to be based on myths, hunches, speculations, educated guesses, inadequate or incomplete data, bias of information-gathers and users, professional predictions, wishful thinking, and so forth, but not on experimental research data or other hard data (60, p. 16).

To conclude, a review of the literature on intervention strategies and program effectiveness suggests that treatment for either the child or parent or both (the family) is based on a limited empirical foundation, and the evaluative results of these programs are not too promising. Based upon a review of the literature, the following major issues emerged:

- Service programs tend to take either a need or a symptom orientation to the problem. A symptom oriented approach is a specialized approach where systems and programs are designed to serve clients in which a certain symptom or syndrome is observed. Therefore, the program tends to reflect and be colored by the symptoms it deals with. The goal of this approach is the amelioration of the symptom rather than the cause of the problem. On the other hand, a need oriented model relates to underlying causes or factors which lead to the problem and thus provide a comprehensive range of services to address the full range of needs. It is a generic approach to the problem.
- Many programs tend to overlook the significance of the family in working with either the child or the abusing parent. Some programs focus on the child and promote the removal and placement of the child outside the family, rather than working with the family as a unit. Other programs focus on resolving the problem of the abusing or neglecting parent without attention given to the child or toward reintegrating the child with the family.
- Protective services and welfare personnel tend to view the justice system as excessively coercive and nontherapeutic. This perception influences their handling of the case in that the court is used as a threat to gain the parents' cooperation, resorted to only after all available alternatives have failed and interacted with in a manner to elicit the desired outcome, rather than as a forum to determine a just outcome which considers the rights of children and their parents.
- The general lack of diverse and appropriate services tends to force justice personnel to rely upon what is available rather than what is needed. Although hard

evidence is not available, reports and discussions with field personnel suggest that often detention, status offender shelter facilities, foster or private agency programs with personnel untrained in the area of child abuse and neglect, are resorted to for emergency or temporary services. Often these temporary solutions evolve into long-term placements.

- Probation and court intake officers are not trained in areas of child abuse and neglect to be able to identify it among the delinquents and status offenders they work with. Therefore, the child's misbehavior becomes the central issue, rather than the child's victimization or the underlying cause of the behavior.

Significance of Commingling to OJJDP

Since 1975, OJJDP officials have been noting sporatic reports from around the country of the commingling of abused and neglected children with delinquents and status offenders in both juvenile detention and correctional facilities, as well as in residential programs.

While there has been continuing interest and concern over the fact that this type of commingling might be occurring, information or documentation concerning the nature, extent, and implications of such occurrences has not been developed.

In hopes of providing OJJDP operational staff with some baseline information on this question, this assessment center was asked to investigate this area of commingling as part of its broader preliminary assessment of issues, problems, and needs facing justice system agencies in their handling of abused and neglected children.

The possible levels of analysis of the commingling question are numerous and multi-faceted. The issues related to it may in many instances transcend Federal and State agency jurisdictional boundaries. Thus, to understand the basis for and scope of OJJDP's inquiry into this area, it is first necessary to return to the legislative mandates of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

In these legislative enactments, one witnesses two major Congressional policy issues that relate specifically to OJJDP's concern with the issue of commingling abused and neglected children with delinquent offenders (and, arguably, "status offenders" as well). One of these issues is most clearly amplified by Sections 223(a) (12) (A) (B), (13), and (14). These Sections call for the removal of ". . . such nonoffenders as neglected and dependent children" from juvenile detention and correctional facilities and for the separation of all detained juveniles from adults. Another related issue is not stated with specific reference to the commingling of nonoffenders with delinquents or adults, but rather relates to a more generic underlying purpose of the Act, which is OJJDP's delinquency prevention mandate. This issue pervades the entire Act but is most succinctly stated in Sections 101, 102, and 103 of the Act which state the findings, purposes, and definitions of the Act.

While these two themes are by no means mutually exclusive, for purposes of discussing the dimensions of the commingling issue, there is a useful distinction between them which should be drawn. The first theme, which mandates removal of nonoffenders from detention and correctional facilities and their separation from adults, is specifically aimed at the deinstitutionalization of this category of children from secure and/or large noncommunity based institutional settings (61). The second policy theme, however, can be read as encompassing an even broader scope, that of deinstitutionalizing abused and neglected children. Assuming the soundness of the premise that there is a significant linkage between the commingling of abused and neglected children with other individuals manifesting anti-social behavior and future delinquent behavior by such abused and neglected children, the delinquency prevention mandate of OJJDP would logically operate to extend their commingling concern to the whole realm of residential facilities and programs. Thus, in addition to focusing on commingling in detention and correctional facilities, OJJDP would also be responsible for monitoring and regulating such commingling in other types of residential programs, including foster care, public and private group homes, and mental health facilities.

The significance of the distinction is as follows: the mandate for deinstitutionalization of abused and neglected children, as with status offenders, is based on a basic philosophical statement of principle which Congress adopted. This principle stands on its own, even absent of other supportive empirical data as to the negative consequences of commingling in detention or correctional facilities; that is, that our system of justice will not tolerate the moral repugnance of incarcerating young persons who have not committed crimes. However, in the realm of commingling in other types of nonsecure residential treatment and care facilities not covered within Section 223 (a) (12) (A) (B), (13), and (14), the efficacy of separating abused and neglected children from children who are labeled status or delinquent is a question of considerable debate and confusion as will be discussed below.

Is Commingling a Significant Problem?

The method for measuring the extent of the problem was divided into two levels of approach. The first level was to be based upon the impressions gained during this assessment. These impressions have been developed and will be discussed on the basis of the following four categories of input:

- available literature dealing with this issue
- previous statistical data developed on this question
- contacts with key individuals who have had exposure to the phenomenon of abused and neglected youth in various types of commingled residential settings
- relevant findings of consultants who worked on this assessment in related area of child abuse processing and programs.

Literature Addressing the Commingling Question

Areas Reviewed

To begin with, an extensive review of published documents and reports covering topics ranging from State laws to descriptions of service programs in the child abuse and neglect area was undertaken. This review did reveal the fact that several States have passed legislation restricting the physical commingling of abused and neglected children with delinquents in secure detention or correctional facilities (14). An assessment of the nature and extent of these restrictions in terms of their implications on prohibiting or preventing residential commingling, however, was not possible based on available data. Thus, a more thorough consideration of this question must go beyond the scope of the present examination.

With the exception of the above noted legislation, the review of available literature failed to reveal any recognition or discussion of the physical commingling of children labeled abused and neglected with other youth or adults in the justice or mental health systems as a separate significant problem. This review included a search of sociological and psychological abstracts (1965-present); a search through the Lockheed DIALOG computer information and retrieval service on child abuse and neglect (1960-present); a search of the National Center on Child Abuse and Neglect child abuse and neglect research abstracts (1965-1977); and a review of relevant documents and materials within the National Juvenile Justice System Assessment Center library.

Analysis

At first glance, one might easily draw one of two conclusions from this dearth of available information. One could presume that the lack of discussion in the literature is a reflection of the absence of any real problem. As has been already noted, however, a number of States have gone so far as to pass legislation on the issue.

Conversely, then, one might be led to the conclusion that the elusive character of the commingling question, combined with the lack of available baseline data, has resulted in the oversight of this significant issue area. The fact is that either conclusion remains speculative based on presently available data.

It is important to note at this point, that while no literature dealing with the commingling of already labeled abused or neglected children was discovered, there does exist a growing body of literature and research findings that addresses the labeling process itself. This literature and research is most pertinent to the commingling issue in that it draws into serious question the validity of the labels themselves (such as status offender, abused, neglected, dependent, or delinquent) and the arbitrary distinction in dispositional placements which result from their usage (49). Even beyond negative implications of such arbitrary treatment is the prospect (which is also explored by labeling theorists) that the labels themselves are an influencing force causing deviant behavior (35).

An example of the impact of labeling which bears most directly on the commingling question is raised in a recent article by Fisher and Berdie on adolescent abuse and neglect (19).* In it, they point out that a major finding of their recent National Study of Adolescent Abuse and Neglect is that abused or neglected adolescents are more likely to be labeled and treated within the juvenile justice system as status offenders or delinquents (19, p. 10). Furthermore, they find that at least in the case of "status offenders," abused and neglected adolescents represent a significant proportion of the overall group. It is observed by the authors that unlike younger children, adolescent abused and neglected youth ". . . often come to public attention by their disruptive behavior (such as running away, stealing, truancy, fighting, and malicious mischief) rather than as a result of what has happened to them." Another consequence which results in misdiagnosis, mislabeling, and inadequate or inappropriate treatment, according to this study, is that abused and neglected adolescents become mentally ill, alcoholic, or drug addicts, and are thus treated in mental health system facilities and institutions for what are really symptoms rather than causes.

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*The authors used a definition of adolescent child abuse and neglect as set forth in Section 3 of the U.S. Child Abuse Prevention and Treatment Act, Public Law 93-247: "The . . . physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened. . ."

The significance of these findings, if it is borne out by other research, and the implications which it has for the question of commingling (particularly in nonsecure residential settings) are obviously far reaching. For the fact must then be faced that the major distinction among the children being placed in these facilities is a somewhat arbitrary attached label. If this is so, and labeling distinctions are based on bureaucratic processing requirements rather than upon a significant difference in the characteristics and service needs of the children (as is implied by labeling theorists), then the issue of commingling becomes somewhat moot. As will be seen in the sections below, among many practitioners in the field, there is a strong sense that this is the case.

Previous Survey Data Developed on this Question

As was noted in the introduction, the general question of commingling of juveniles has been of interest and concern to OJJDP for some time. Reports of incidents of such commingling to OJJDP officials were raised at a coordination meeting between OJJDP and the National Center on Child Abuse and Neglect (NCCAN) in early 1976. As a result of the discussions which took place at that time, NCCAN officials agreed to conduct an information mail survey of all NCCAN funded projects which were in operation at that time (57).

The survey letter was mailed to all NCCAN funded project directors from Douglas J. Besharov, Director of NCCAN, on April 27, 1976.* It is believed that projects operating in all regions of the country were contacted (4). Furthermore, most of the project directors contacted were experienced with the operations of a broad range of residential care and treatment facilities in their region. Thus, it was believed that they could provide valuable guidance and information as to the nature and extent of incidents of commingling and the need for concern over such incidents.

Survey Responses

The exact total number of responses received is unknown at this point; however, return letters from some 24 program directors covering seven out of ten LEAA Federal regions were forwarded from NCCAN to NJJSAC.

In their responses, none of the respondents provided statistical documentation of incidents of commingling. The overwhelming majority, however, indicated that there were in fact incidents of abused and neglected children being housed in various types of residential settings with delinquents, status offenders, adult criminals, and mental patients. The types of facilities ranged from temporary shelter care and detention facilities to State training schools, State mental hospitals, and adult jails in rural counties.

Below are brief synopses and quotations from several of the responses received. This should give the reader some sense of the perspectives reported.

> "I have always thought that it was common understanding that such intermingling was universal and am surprised that anyone considers it to be news. My overall reaction is that this is actually a small facet of the larger complex of child placements and should be addressed only

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*Letter and responses on file with NJJSAC.

in the larger context. We need to get away from the fragmentary and misleading labeling of delinquent, abused, etc., because the label in no way reflects the type of facility needed by the child, and begin an approach which identifies a child's specific needs and searches to find a total life plan which meets those needs (which may or may not be a residential facility)."

Respondent from HEW
Region IV

"The general consensus is that although inappropriate intermingling does exist, it is not a common occurrence. Locations which are conducive to intermingling are usually in isolated areas, such as Alaska's bush, where there are no alternative shelters."

Respondent from HEW
Region X

"Often private runaway shelters housed both status offenders and abused/neglected, especially in rural and small towns. Also large numbers of juveniles without court conviction end up in court jails. It is a serious problem in Region VI (Texas/environs)."

Respondent from HEW
Region VI

"In West Virginia, dependent (abused and neglected) children are placed in state training schools and state mental hospitals. It is also common for dependent juveniles to be held in adult jails in rural counties."

Respondent from HEW
Region III

"The need for foster homes and group homes is so great that probation and welfare departments share the same home often placing abused, neglected, dependent, and delinquent children and youth in the same facility. In our more sophisticated and populated areas, this is considered illegal."

Respondent from HEW
Region IX

"The only time such children might be placed together would be in the use of long term treatment facilities. The focus of the treatment plan at that time is on the child's emotional and mental health needs, regardless of how he came to the attention of the court, and if a delinquent child and a child who has been abused or neglected but never delinquent happen to have the same treatment needs, they could be in the same facility. Abused or neglected children are never detained in training schools or placed there by a court unless they are, indeed, delinquent."

Respondent from HEW
Region III

"Many residential treatment centers that we use also have a mixed population. The type of symptom that an abused/neglected child exhibits can range from severe emotional disturbance to delinquency or a combination of both. Thus, our task of planning for such adolescents is complicated by a paucity of appropriate resources."

Respondent from HEW
Region III

"Particular difficulties arise when the dependent and neglected child is also retarded or if he/she is seriously and emotionally disturbed. There are no separate facilities or services for children with these special problems, and the delinquents in the center tend to single out these children for harassment."

Respondent from HEW
Region VI

"A telephone survey contacting Area administrators or Coordinators revealed about what I would expect. About half answered that they were aware of some intermingling. Local court practices and resources, or lack of them, account for whether or not delinquent and neglected children are in the same facilities, particularly detention or temporary care. A child whose principal difficulty is abuse is rarely in group facilities for detention or shelter homes where they would also have delinquents."

Respondent from HEW
Region V

"As regards residential placement, those children are placed through the Division of Youth and Family Services (the State child welfare agency). Children who are adjudicated delinquent may well be placed in the same facility as children who have been placed from abusive and neglectful homes. I have no statistics to substantiate this, but personal knowledge of and experience with the child welfare system in New Jersey have taught me this is the reality."

Respondent from HEW
Region II

Analysis

Reviewing the survey responses brings several points concerning the commingling question into a clearer light. It seems evident that there are, in fact, incidences of commingling taking place in most regions of the country. The level of incidences is impossible at this time to measure. It also seems that where such incidences are perceived as inappropriate and presenting significant dangers to abused, neglected, and dependent children, they tend to be more in rural regions where serious deficiencies exist in the range of treatment alternatives.

A second theme that is sounded among many of the respondents is an underscoring of the complexity of trying to separate out children on the basis of labels which seldom adequately reflect distinctive behavioral characteristics or service needs. References are made either directly or inferentially to the frequent occurrences whereby the juvenile justice and child protective service systems tend to adjust labels in order to fit available (or unavailable) resources. Thus, weight is added from a practitioner level to the arguments by labeling theorists discussed in the literature section above, that to focus on commingling of abused and neglected juveniles with delinquents and status offenders as a discrete issue is overly narrow and simplistic.

This point should be kept in mind. It seems reasonable to conclude that there may be situations where commingling of certain delinquents, status offenders, abused and neglected children, may even be appropriate. Nevertheless, it also seems reasonable to conclude from these survey results that there are many instances where inappropriate commingling is taking place and that this circumstance presents a danger to the children involved. In these cases it warrants further investigation and possible remedial action.

Contacts with Key Individuals with Exposure to the Commingling Phenomenon

The decision to make inquiries of key individuals working in the field of child abuse and neglect had two major objectives: first, to validate the impressions gained from the NCCAN survey; and second, to expand, if possible, the information base concerning the nature and extent to which commingling is perceived as a significant and discrete issue by practitioners in the field.

In considering the best method of identifying and interviewing key contact people within the time and resource frame of this assessment, it was determined that the most productive approach would be to present the issue to gatherings of notable figures of national prominence working in the child abuse and neglect field. Since two such gatherings were scheduled to coincide with the present research effort, the NJJSAC made arrangements to be present and make inquiries. Additionally, where particular individuals who might have information relevant to the commingling issue were identified, they were contacted and interviewed by phone.

The first conference was a three-day October 1978 conclave organized by the Office of Youth Development of HEW and the Urban and Rural Systems Associates (URSA) to obtain reactions and recommendations to findings of a several year national study on adolescent child abuse and neglect. The participants were figures from around the country who have expertise in the area of child abuse and neglect.

The second conference was the American Humane Society's 1978 National Symposium on Protecting the Abused, Neglected, and Sexually Exploited Child. Panels and workshops covering a broad range of topics were held. They included problems of the child protective services system, the juvenile justice system, and the private sector in dealing with child abuse and neglect problems. The panels and workshops were attended by speakers of national reputation and by a broad cross section of individuals working in the child protection field.

Questions Posed to Individuals and Groups Contacted

Since neither time nor the context of the inquiry permitted a formal survey instrument, the questioning took place on a more informal basis. The following list of questions cover the general areas of inquiry presented for reaction within various small groups and workshops.

1. Are abused and neglected children being commingled or "treated" in essentially secure-type facilities such as adult facilities, detention halls, State correctional facilities, and mental hospitals?
2. Are they being commingled in other nonsecure residential facilities with status offenders, delinquents, or adults?
3. If they are being so housed, are staff people dealing with abused and neglected children within these programs or facilities differently from the way they deal with other children such as delinquents?
4. For what periods of time are they commingled, and in what kinds of facilities?
5. Are these abused and neglected children perceived as being different from others in such programs in terms of need? In other words, if they are commingled, is this perceived as a problem (by operational people, by legislative/policy development people)?
6. If commingling is not viewed as a problem, how do operational personnel respond to arguments of the negative impact of such commingling?
7. If commingling is recognized as a problem by operational personnel, what is being done about it? What could be done about it?
8. Why does the commingling exist? (Lack of other alternatives? Program effectiveness?)

Analysis

Although most of the questions presented were not answerable at the present time, impressions gained from the NCCAN survey were generally corroborated. While information was received of several specific instances of commingling, as well as abused and neglected children being housed in secure detention by themselves, no one was able to suggest any concrete statistical data from which the full nature and extent of the problem could be evaluated. It should be pointed out that the lack of this information is an important deficiency which increases the potential for abuses.

The feeling that separation should be on the basis of need rather than on the basis of label was also resoundingly reiterated. Therefore, as many individuals stated or inferred, the focus on separating delinquents and status offenders from abused and neglected children tends to gloss over a much broader and more complicated problem. That is, the problem of inadequate screening and diagnostic capabilities at the front end of the juvenile justice system, and inadequate placement alternatives and treatment options at the back end.

This is not to say that many aspects of commingling that are occurring were not of concern to those questioned. The point reiterated by many, however, was that in terms of problem resolution and prioritizing, the approach had to be from a broader perspective of "system malfunction."

Consultant Findings

As part of their orientation, consultants hired to conduct assessments of issues, problems, and needs facing the justice system in its handling of various aspects of child abuse and neglect cases were asked to keep in mind the commingling question and report on any significant related findings.

Unanimously, their response to questioning on this subject at the conclusion of their assessment echoed the findings that a broader perspective is needed on the issue of commingling.

Empirical/Quantitative Record of Commingling

Existing Data

In the search for empirical quantitative information which would document incidents of commingling of abused and neglected children with other youth and adults in residential facilities, a number of sources were reviewed, including the following:

- Children in Custody: Advance Report on the Juvenile Detention and Correctional Facility Census of 1975 (U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, Washington, D.C., 1977).
- Brought to Justice? Juveniles, the Courts, and the Law (National Assessment of Juvenile Corrections, University of Michigan, Ann Arbor, 1976).
- Under Lock and Key: Juveniles in Jails and Detention (National Assessment of Juvenile Corrections, University of Michigan, Ann Arbor, 1974).
- National Analysis of Official Neglect and Abuse Reporting (U.S. Department of Health, Education, and Welfare, National Center on Child Abuse and Neglect, Washington, D.C., 1978).
- Child Abuse and Neglect in Residential Institutions: Selected Readings on Prevention, Investigation, and Correction (U.S. Department of Health, Education, and Welfare, National Center on Child Abuse and Neglect, Washington, D.C., 1978).
- Juvenile Status Offender and the Law (Pennsylvania Joint Council on the Criminal Justice System, Harrisburg, Pennsylvania, April 1977).

Additionally, city and county statistical data collected by the NJJSAC status offender project from over 45 jurisdictions around the country were reviewed. None of this data dealt specifically with commingling on neglected and abused children, and there was very little data from which generalizations could be drawn.

Two studies, however, did provide some information on the topic. The first study was on detention by reason in county jails and detention centers (63, p. 70). From the study, it was found that dependent and neglected children were in juvenile detention centers in selected counties on the average of 7 percent, and in jails on the average of 1 percent. When one county detention center recorded multiple reasons for the detention, neglect and dependent cases accounted for 11 percent of the detention population. From this information, it appears that if multiple reasons are recorded more frequently, abuse and neglect would be evidenced as an underlying issue for bringing the children into custody in a much higher number of cases than is presently reported. One could presume that neglected and dependent children could be a main reason to bring children into custody, but another reason is chosen officially because of some difficulty for the system in dealing with dependency and neglect cases. This raises doubts on the information available.

The most comprehensive studies obtained on national rates of juveniles in detention and correctional facilities were found in the Children in Custody reports. Table 3 (p. 58) shows there is a definite propensity to place dependent and neglected children in private facilities; however, it is not clear how many children in other categories were also neglected or dependent. This propensity for institutionalizing neglected and dependent children in private rather than public facilities raises some important questions in need of further study. For example, are neglected and dependent children being placed in private facilities due to a lack of available public resources or are there other explanations for this situation? In addition, cost factors, quality of service issues, and State control mechanisms over private facilities should be carefully studied and assessed.

Since there is a lack of material in the area of neglected and abused children in correctional facilities, the extent of the problem is yet unclear. In future research, secondary and

Table 3

Juveniles Held in Public and Private Detention and Correctional Facilities

Type of Facility	Year	Total Juveniles N	Neglected/ Dependent %
Public	1972	43,105	1.09
	1973	45,694	1.15
	1974	44,922	1.10
Private	1974	31,749	22.3
	1975	27,290	17.9

Source: Adapted from *Children in Custody: A Report of Juvenile Detention and Correctional Facilities* (U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, Washington, D.C., 1972, 1973, 1974, and 1975) multiple reasons should be recorded when a child is brought into custody. This would show the extent to which dependency and neglect are underlying factors for the detention or institutionalization.

SUMMARY

As noted in the introduction, the purpose of this paper has been to highlight some of the many complexities and ramifications of related justice system handling of the child abuse and neglect cases. The specific focus on the link between child abuse and neglect and juvenile delinquency; the commingling of abused and neglected juveniles with delinquents, status offenders, and adults; the legal processing of these cases; and programmatic strategies for intervention and treatment have brought to the forefront some of the major issues, problems, and needs facing policymakers today. It should be clear at this point that child abuse and neglect is not a singular social problem. Like most social problems, it is closely related to many of the broader, more diverse influences and forces that affect people and their families. Based upon the available empirical data, a case can be made for considering drug addiction, alcoholism, unemployment, social stress, and other types of problems individuals face during a lifetime as factors which influence abusing and neglectful behavior. Thus, while there is a common tendency to view parents who abuse or neglect their children as a distinct group who react differently from other parents under similar circumstances, such distinctions must be drawn with extreme caution and a certain degree of skepticism. Most of those who engage in abuse or neglect are parents who have lost the control of their aggressive or protective impulses and who do so due to a number of socioeconomic and environmental reasons. Some of the forces leading to their behavior are internal and relate to their own experiences in childhood. The models which they have had or lacked often form the basis for their own childrearing practices. Many of these forces, however, are external and relate to the growing complexity of a technological society and the stresses which it imposes. In addition, evidence is emerging that the abuse and neglect of children in institutions and foster care facilities is a significant national problem. Therefore, efforts to deal with child abuse and neglect need to include abuse and neglect in institutional settings as well as in the family.

At first glance, these observations may seem a bit elemental and even nonresponsive to the policymaker who wants to know in specific detail what should be done and where tax money should be spent. Nevertheless, the findings of the research to date strongly support such a return to basics. Because of the growing recognition that many of the so-called strategies for intervention have been based more on supposition than on fact, the whole approach to intervention must be re-evaluated. Thus, it is from this perspective that what was learned from each of the four research elements examined is discussed.

The Linkage Question

A review of the history of child abuse and neglect cases within the context of the juvenile justice system, combined with the research findings on the causal relationship between abuse, neglect, and subsequent delinquency, provide three key levels on which the linkage question must be seen.

The first approach is a subjective one which looks at the historical precedents for dealing with abused and neglected children within the justice system. From this vantage point, one can appreciate the century-long evolution of a de facto linkage between abuse, neglect, and delinquency which has resulted from continually expanding mechanisms for State intervention. While this level of linkage is essentially a societal creation, the implications of this creation are at least equal in significance from a policymaker's perspective as those which stem from a more inherent causal link between abuse, neglect, and delinquency.

The second approach deals with the linkage between abuse, neglect, and delinquency based upon empirical evidence. Here the investigation focuses upon the inherent causal factors between child abuse, neglect, and subsequent delinquent behavior and looks for supportive or detracting research findings.

In terms of the inherent causal factor, the empirical data on the linkage between child abuse, neglect, and subsequent acts of delinquency, although not conclusive, does suggest that the interrelationship is significant. More research into this area is urgently needed to further elaborate the dynamics of the relationship. Based on the findings to date, however, it does not appear that such elaboration should be considered as a prerequisite to social action from the perspective of those mandated with a delinquency prevention jurisdiction. Studies on the strength of the overall link, the connection between abuse and neglect and violence, as well as those looking at the link between status offense-type behavior and abuse and neglect, all point in the same direction. Thus, considering the limited resources available, research efforts at this point should focus upon basic theoretical issues of child abuse and neglect, and be easily translated into direct action.

Recognizing the historical link between the handling of child abuse and neglect cases and the juvenile justice system gives the policymaker a basis for insight into the many levels on which the justice system has institutionalized a link between abuse, neglect, and delinquency. This phenomenon was recognized by the Congress through its passage of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, as well as by its passage of the Child Abuse Prevention and Treatment Act of 1974 (with subsequent amendments).

The third approach focuses upon the adjudication of abused and neglected children as delinquents or status offenders. The mislabeling reflects a pattern of system reaction and abuse which has the effect of creating a potential for delinquent (as well as other anti-social) behavior where none existed previously.

Although at times it can occur as a result of the system's effort to provide services to these children where the label is required before service can be provided, there does not appear to be a mechanism for relabeling delinquent or status offenders as abused or neglected children when it is the more appropriate label. Therefore, the labeling process is often an attempt to accommodate the inadequacies of the system. Perhaps the most significant outcome of the recognition of this circumstance is the painful reminder that the interrelationship between premise and policy must remain a continual point of reflection. As Schur relates it: "Our young people deserve something better than being processed." As the evidence indicates, the absence of that "something better" is resulting in something much worse.

Legal Processing

Looking at the formal responses to child abuse from the legal processing perspective has highlighted many specific levels of system intervention that lack any solid relationship to knowledge or absence of knowledge of the phenomenon itself. Even more significantly, this level of review outlines several negative implications which the exercise and nonexercise of coercive legal authority can and is having on efforts to remedy child abuse and neglect in this country. Here one sees in more specific terms the outcomes of the de facto linkage discussed above.

At the outset, it must be observed that there is no cohesive policy toward justice system handling of child abuse and neglect, either on the Federal or State level. As a result of the variety of reporting laws and broadened definitions of child abuse and neglect which have been enacted in the majority of States, initial intervention into child abuse and neglect cases has increased nationally. The resultant strain of more cases of child abuse and neglect entering the social service and justice system without a clarification of their respective roles and functions has resulted in increased confusion, frustration, counter-productivity, and inefficient utilization of scarce resources. In addition, attention directed toward initial intervention strategies has diverted energies and resources from long-term service and treatment oriented programs.

A related result of the recent legislative flurry on child abuse identification has been the creation of many problems and issues raised as a result of record-keeping mandates and central registries. Efforts directed toward protecting privacy, the conflicting roles of mandated or voluntary reporters, the problem of underreporting, and the conflicts resulting from the lack of clarity as to intervention priorities and the failure to monitor such interventions must now be re-examined.

Another area of legal processing of key importance are the criminal law responses to child abuse and neglect. In this area, the threat of intervention is through potential prosecution of the parent(s). This approach can be seen to have both beneficial and detrimental effects upon the problem. The beneficial effects can be described in terms of both the deterrence of future acts and the creation of a strong impetus for parental cooperation, either in removing the child or accepting treatment. The negative or detrimental effects are in terms of the distrust or reluctance to become involved with legal institutions, resulting under-reporting, self-incrimination, privacy and due process issues that are raised, and a general hardening of the adversary lines of State intervention which occurs.

In terms of future policy formulation in this area, clearly what is in order is a more balanced and informal exercise of legal authority to ensure that the nature and scope of intervention initiated will be based on a pragmatic assessment of system capacity in terms of both knowledge and resources.

One future key focus of attention is the need to limit the scope of cases entering the criminal justice system. In developing an effective approach to families in crisis, the nonpunitive treatment orientation serves both to lessen the conflicting role of service providers and to discourage inappropriate coercive intervention. Criminal prosecution should, of course, remain an option of the justice system in cases of severe or fatal incidents.

In terms of the juvenile justice responses to child abuse and neglect, the most critical aspect in need of attention relates to two major areas. One is the lack of competent resources in justice and social service agencies. The second relates to the multiplicity of standards, interests, and objectives often resulting in the lack of coordination between justice and social service agencies.

As has been observed, the choice of initial intervention agencies and responses is crucial insofar as the determination of subsequent processes and outcomes for both the parent and the child. Thus, policymakers must address the problems of a multiplicity of possible entry points, bureaucratic confusion and jealousies that are currently so prevalent.

Some notable approaches to this problem have been undertaken already. The State of Connecticut, for example, has moved toward a more coordinated approach by centralizing all services to youth into a central State agency. The Connecticut legislative mandates focus upon the family in crisis rather than either the child or the parent, as is so often the case. Further model developing and system analysis is needed in order to fully develop social service and justice system processes and programs which incorporate this perspective.

Another approach is the adoption of Guardian Ad Litem (child advocacy) programs at the initial intervention level. The concept here is that an advocate of the child's interest is appointed to represent the child's best interests and ensure that the mobilization and delivery of formal and informal resources occurs at each stage of intervention. This program provides a potentially powerful check on the system to ensure that service delivery is occurring and that the child is receiving a coordinated program of treatment. Variations of the program will need to continue and be evaluated before the full potential of this type of program is known.

A third key approach is that of a well integrated education program for social service workers and court personnel as to the perceptions and actual functioning of the various agencies working with the problem of child abuse and neglect. The current lack of communication and misunderstanding between these agencies creates unnecessary confusion and competition often resulting in horrendous consequences for children and families involved in the system.

Agencies working together at the Federal, State, and local levels are a critical link in the effort to achieve a well-integrated delivery of critical services to families in crisis at the State and local levels.

In the final analysis, while protection of the child must remain the foremost concern of justice system handling of child abuse and neglect cases, it is clear that the removal of children from the home, which is frequently for long periods and without provision for family treatment, is the most potentially harmful and punitive aspect of the existing system. Thus, to accomplish remediation of these breakdowns, strict limitations and clear standards for current intervention are necessary in order to stimulate continued development of alternative treatment measures as well as to protect the welfare and rights of children and their families.

Efforts need to be made to inform legislatures and State level policymakers of the problems of an unbalanced response. Such a response undermines effective treatment. On the operational level, social service and justice system personnel need to recognize the significant role and function of the justice system in relation to child abuse and neglect efforts, and become sensitized to their respective roles in relation to the system's operation, to ensure that entry and processing decisions are appropriate, nonarbitrary, and effective. Recognition is also needed so that the majority of child abuse and neglect cases never permeate the justice system, especially at the court stage. Further attention should be focused upon the impact of this aspect upon the child abuse and neglect problem in general.

Commingling

The question as to the extent to which residential commingling of abused and neglected children presents a significant problem for OJJDP cannot be conclusively answered based on presently available data. Nevertheless, there are several important observations which can and should be made.

To begin with, on a basic level, it is necessary to clarify and separate the issue of commingling in relation to deinstitutionalization. The reasoning here is essentially two-pronged.

First, from the standpoint of underlying philosophy, deinstitutionalization, as mandated by Congress, is based on an underlying policy position that incarceration of nonoffenders in detention or correctional facilities is morally repugnant to basic concepts of human freedom and justice. Thus, OJJDP need go no further to assess the efficacy of separation of these children from the institutional settings covered under the above noted sections.

The second prong, which relates closely to the first, is the fact that from an operational perspective, the program and monitoring mechanisms which have been and continue to be developed for deinstitutionalization of status offenders at the State level, can readily be expanded to include abused and neglected children. While the 1974 Act, as amended, does cover deinstitutionalization of all nonoffenders, the primary focus of present monitoring policies in the States centers on children who are labeled as status offenders (8).

Monitoring reports could expand the data base on abused, neglected, and dependent children in custody or care facilities. Then an already existing information resource could serve to immediately increase the knowledge base of such incidents. One example of a State where this is already being done is reflected by the recent monitoring survey which was undertaken by the California Office of Criminal Justice Planning (OCJP) as part of their 1978 monitoring effort. In it, OCJP included categories for reporting abused, neglected, and dependent children in custody or care in approximately 150 private residential facilities in California, in addition to the public facilities which they already monitor.

At a general level, the investigation into the commingling question has implications which reach far beyond the question of specific incidents. It seems certain, based on the NCCAN survey findings (discussed earlier in this paper), that such incidences of inappropriate commingling of abused and neglected children with other youth and adults do in fact occur. Nevertheless, there is also a strong indication from operational people working at the service delivery level, that approaching the problem of inappropriate commingling from the narrow perspective which considers the need for an official separation based upon label rather than upon the underlying needs of the juvenile, is dangerously shallow and misleading. Taking into account the reality of institutionalized commingling, which is the result of system labeling, the danger of mandating separation based on the fact that one child is labeled a delinquent or status offender and another is labeled neglected or abused, is that it only serves to further perpetuate inappropriate handling of juveniles and gloss over larger problem areas.

The real issue which must be dealt with here goes beyond the narrow question of commingling. From a policy and program perspective, the problem requires that the juvenile justice system come to terms with the need to ensure (1) that children are identified and dealt with on the basis of service needs rather than symptomatic behavior, and (2) that adequate resources for appropriate placement alternatives exist so that the needs which are identified can be met.

Another important observation from a general level relates to the potential consequences which can arise from focusing too narrowly on a particular question without thoroughly analyzing the validity of the assumptions underlying it. The present assessment has uncovered a host of situations in the child abuse and neglect policy development area where such analysis has taken place. The result has often been that policy which is implemented on such a basis creates as many problems as it solves.

In the present instance, for example, the question was asked as to the significance, in terms of incidents, of commingling abused and neglected children with delinquents and status offenders. Had a large base of statistical information been available which indicated that such incidents were occurring, the answer to the question would suggest that the "problem" appears to be significant. In turn, this finding could easily become the basis for a whole series of policy and program initiatives to resolve the "commingling problem." As with other intervention strategies that have been implemented, such a thrust would ignore or overlook the much broader and more complex dynamics of inappropriate incarceration, institutional abuse, and institutionalized commingling, of which the more narrow commingling question is only a small part.

In view of the potential for misdirection and the implications in terms of an inappropriate focus of time and dollar resources, one must appreciate the basic but crucial importance of adequate reflection on the existing state of knowledge and its deficiencies, so that the right questions can be identified and answered.

RECOMMENDATIONS

This assessment really represents a preliminary first step in identifying issues, problems, and needs which must be addressed by the juvenile justice system in its handling of abuse and neglect cases. Though NJJSAC is not as yet in a position to provide comprehensive solutions to many of the complex problems which have been raised by this assessment, there is a sufficient basis on which a more directed Federal effort can be initiated in the child abuse and neglect realm. The purpose here, then, will be to (1) provide a beginning context for such a directed effort, and (2) to specify particular policy and program initiatives which OJJDP can undertake based upon the knowledge gained so far.

The discussion will be broken down into three categories for recommended future action. They include (1) coordination at the Federal level, (2) training and information dissemination at the State and local level, and (3) future research directions.

Coordination of Federal Efforts

One of the most significant findings of this assessment is that child abuse and neglect is not a singular problem. Child abuse and neglect is the result of the multiple problems and forces which create a crisis in the family. It is also clear that other juvenile problems, such as delinquency and status offense behavior, are either causally related or ultimately resolved through the family. The conventional concept of coordination is based implicitly upon an assumption that the distinctiveness of existing Federal agencies developed to deal with these problems is legitimate in terms of the nature of the problems themselves. Therefore, coordination as used here has a significantly different meaning.

The need for coordination as used here means Federal level effort directed toward assisting families in crisis, rather than a coordination of Federal efforts directed at specific social problems. This effort should target the family as the major priority to receive services. The objective is one fostering family stability and functioning rather than isolated efforts which target distinct symptomatic behaviors (e.g., delinquency, status offenses, alcoholism, drug abuse, child abuse and neglect).

Congressional recognition of the need to centralize Federal efforts and resources for troubled youth is strongly evidenced in its passage of the Juvenile Justice and Delinquency Prevention Act. As a result of this legislation, some efforts toward Federal level coordination have already been initiated by OJJDP. Findings of this assessment indicate that the scope of such coordination should incorporate the broad concept of family needs discussed above.

Whether additional legislative or administrative reorganization will be necessary to accomplish this end is beyond the scope of this assessment. Continued efforts should be made, however, to elevate this level of coordination to the highest possible priority. Many of the perceptions of the child abuse and neglect problem at the State and local level directly or indirectly reflect Federal level policy and program priorities due to the overwhelming reliance on Federal dollars. Thus, without such a prioritization, child abuse and neglect problems, issues, and needs will continue to be approached at the State and local level in a confused and noncohesive manner reflective of the lack of leadership and coordination at the national level.

Training and Dissemination

One of the major findings of this assessment was the fact that State and local level policymakers and practitioners are, to a great extent, untrained and unprepared to deal with the complex and multi-faceted phenomenon of families in crisis. The result has been that both policy and service delivery to abused and neglected children and their families once they come in contact with the justice system is sorely inadequate and often detrimental.

In order to address the critical need for expanding and upgrading the level of knowledge and sensitivity in this area, a major training and information dissemination program is recommended.

Such a program should reach several audience levels. One target audience should be State level policymakers, such as legislators, legislative committee staff, high level executive branch appointees, and agency heads (particularly in the health, welfare, protective services, and criminal justice areas) and members of the State's judicial council. The second level of approach should be training for operators within the various justice system components. Included would be police personnel, probation workers, judges, prosecutors, and others working from a justice perspective with children and their parents. The effort at the State level would be directed toward assisting in the development of a well coordinated and well integrated policy approach for addressing the needs of children and families in crisis. At the operational level, the focus should be directed toward assisting in the development and implementation of strategies for communitywide intervention and nonintervention.

Future Research Directions

Future research in child abuse and neglect supported by the Federal government should focus upon an integration of strategies and programs directed toward families in crisis. As part of this direction, more attention should be focused upon the operations and activities of the justice system and community agencies which appear to be operating more as a "shadow system" than a clearly defined and visible system accountable to the community for its efforts to deal with child abuse and neglect. Therefore, basic questions need to be raised and answered regarding what is happening to children and their parents once they are identified as either victims or perpetrators of abuse and neglect. Furthermore, the complexity of child abuse and neglect as a social problem, as well as some of the exasperating effects of society's narrow and counter-productive approaches to the problem, need to be recognized and studied. Often solutions to one aspect of the problem have been negative factors in other areas. For example, too much emphasis upon treatment approaches to either the child or the parent tends to undermine the cohesiveness of the family. Increased identification and reporting efforts (widening the net) can inappropriately bring families into the system and stigmatize them. Over-emphasis upon therapeutic strategies which are not based on sound theory or research may also undermine the legal rights of children or the parents. The complexity of child abuse and neglect, therefore, suggests that society's efforts to remedy or resolve the problem will need to be balanced. An over-emphasis upon the legal rights or due process requirements would tend to distract from the human service needs of the child or the parent. The funneling of the State's limited resources into reporting and recording efforts might place a drain upon the resources available for treatment and rehabilitation. Therefore, research should be directed at basic issues and questions which would improve the theory and knowledge base of child abuse and neglect. In addition, from what is already known, it appears that the complexity of child abuse and neglect necessitates that whatever efforts (at the Federal, State, or local level) are utilized, they will need to coordinate and integrate with other types of strategies or interventions which target child abuse and neglect or other related social problems.

As an initial step in this direction, the following basic research questions need to be answered:

- How can other social programs, e.g., delinquency, alcoholism, drug addiction, marital dysfunction, unemployment, be better integrated to include the prevention and treatment of child abuse and neglect?

- What can be done so that social service and justice system agencies are more able to coordinate and cooperate in their efforts to deal with child abuse and neglect?
- Are children who are officially identified as abused and neglected receiving effective services, or are they inappropriately being treated the same as delinquents or status offenders?
- What is the extent and dimensions of institutional abuse and neglect of children as a result of (1) specific incidents by caretakers, (2) the policies and operations of programs, or (3) the subtle and pervasive practices of the system which tend to undermine children's basic rights?
- What happens to parents or guardians once they are reported as abusers or neglecters? How are they handled by social service agencies and the justice system? Are their rights being protected? Are they receiving effective remedial services?
- What has been the impact of reporting laws upon the legal system, social service system, and children and their parents brought into these systems?
- What has been the impact of the Federal Child Abuse and Neglect Act (1974) and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, upon State legislation and services in the child abuse and neglect area? Have there been conflicts and counter-productive approaches at the Federal level which have impacted upon State and local efforts?

As was noted earlier, recent years have reflected an ever-increasing focus of attention on abused and neglected children by local, State, and national leaders representing a broad cross-section of society. In many circles, common reference is made to 1979 as the "International Year of the Child," reflecting the topical popularity of concerns of child protection and children's rights.

Still, with all the present attention and interest, a note of caution must be sounded. The complexities of the phenomenon of families in crisis, which results in incidents such as child maltreatment, will require patience and a long-term commitment of creative thought and dollar resources if significant progress is to be made. As time passes, there is always the threat that current interest will wane or shift to the next critical social issue of our time which presently awaits discovery. If this occurs, as the set is struck, the lights are dimmed, and the crew retires to prepare for another day, the social crisis that has been so eloquently and touchingly illuminated through the literature and discussions with practitioners will once again be quietly relegated to the shadows of our social conscience, and the distress of millions of juveniles who are abused and neglected each year will continue.

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APPENDIX A

NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

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AND PROGRAM MONITORS

NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

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APPENDIX B

CURRENT SOCIAL RESPONSES TO CHILD ABUSE AND NEGLECT FROM A LEGAL PROCESSING PERSPECTIVE

INTRODUCTION

This paper will examine the three tiers of formal response to child abuse and neglect--reporting laws, juvenile protective service laws, and criminal laws--in terms of the legal processing problems presented to the policymakers, operators, and clients of the juvenile justice system.

At the present time, there is no cohesive policy toward child abuse and neglect. There are 51 sets of policies (50 states and the District of Columbia), each with local variations, resulting from the practical way that the police, the courts, correctional agencies, and social welfare workers exercise their large range of discretion.

Formal social response to child abuse and neglect is not new. The allocation of extreme legislative and administrative energies, however, is new. For example, following the "discovery" of the "battered child syndrome" in 1962, many jurisdictions passed their version of a child abuse reporting law. Many States also amended their juvenile court laws or their criminal codes to more particularly deal with the problem of child abuse and neglect. In 1977, Congress amended the 1974 Juvenile Justice and Delinquency Prevention Act to direct the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to assign priorities toward the prevention and control of child abuse. In addition, Congress passed the Child Abuse and Neglect Act of 1974 to coordinate HEW efforts and create the National Center on Child Abuse and Neglect (NCCAN).

This paper is directed toward the broader question of what the form and direction of Federal policy and action should be. The particular emphasis and perspective of this paper are two legal processing issues: what processing problems are presented by a massive program of social interventions, and what broader problems are reflected by the problems of processing.

Formal social response to child abuse and neglect is, by definition, complex. Protective impulses are mixed with rehabilitative and retributive impulses. This complexity is reflected in formal processing as the focus shifts between the abused and the abuser, the act of abuse and the context of the abuse. The identity of interests is often blurred as styles of intervention sometimes are adversary in character and sometimes are therapeutic. Sometimes the interest of the child is seen as adverse to the interests of the parents. Sometimes family unity is perceived or sought. State interest, too, is involved. This is by no means simple as the State, in its parens patriae capacity, seeks both to articulate the child's interest and to define its own role. Questions of representation and voice further confound the formal response to child abuse. Questions of tense are involved, too: are we protecting the present child or are we shaping the future adult?

This paper will seek to identify the interests involved in the various forms and stages of formal response to child abuse. This, of course, is not enough. But it will help in determining what choices the interveners have and what dilemmas they face. The blurring of interests, representation questions, and voice often leave the policeman, the prosecutor, the probation worker, the social worker, the juvenile court judge, and even the planners and administrators in a seemingly hopeless muddle about how to proceed. Identification of interests is a start.

Beyond this identification, however, lie some deeply embedded contradictions about State policy toward children and families. These contradictions, again definable in terms of mixed goals, are often presented to us in the form of process dilemmas, the central of which is the due process dilemma. Protective impulse is often at odds with reality. What society wants to do for the child or the family is often in substantial variance with what it in fact does; what society promises to deliver is often greater than what it does deliver. These variances show up and are identifiable in the dynamic aspects of processing. In this paper, due process will be addressed as one of the central dilemmas, both in terms of what it shows us about the underlying conflict and in terms of what it can tell us about steps that can be taken toward reality testing--i.e., shaping of the plans for social intervention--and balancing the several interests involved.

HISTORICAL CONTEXT

Present response to child abuse is in many ways not new. Two things are new, however: they are the scale of response and the level of concern for the rights of the parties in the face of government intervention.

From the early beginnings of the juvenile court in the late 19th and 20th centuries, and the modern re-emergence of the parens patriae doctrine, child abuse has been a matter of concern (11, 12, 15). The original juvenile court laws did not draw a clear line between abused children, neglected children, dependent children, or delinquent children. To the extent that these distinctions were drawn, this action came later. Delinquency, neglect, and abuse were all viewed as symptoms of family problems and as indicators of future trouble for the child (as an adult). This was seen as inevitable unless supplements were delivered to the family or substitutes were found for the family. The initial design of the juvenile courts called for the delivery of protective services in a social welfare form (sometimes called reformation and rehabilitation). It did not regard which indicator of social pathology presented itself, be it delinquency, abuse, or neglect. Independent punishment of parents for their more extravagant abuses was a possibility under criminal statutes at the time. The spirit and letter of the original juvenile court laws, however, diminished this alternative as a matter of declared policy.

Informal procedure rules the advent of the juvenile courts. Early intervention appeared to be benign. Parental interests and child interests were not usually seen as contradictory. Parents and children were not viewed as "parties" in a formal sense. The State's intervention was not viewed as adverse. Much of this character can be attributed to the ideals of the progressive reformers whose efforts resulted in the creation of the courts (11), and much can be attributed to the perceived and actual target population of the original juvenile courts--the poor (10, 13). The childsavers perceived the newly-arrived urban poor (immigrants mainly) as exhibiting the principal need for social intervention. By the 1930's, the ideals had dimmed. Protective services were not being delivered in the kind and quality promised. The benign original intent of social intervention was wearing thin. Delinquent acts of children were becoming both the reason and the dispositional focus of juvenile court intervention; children were being punished for their acts. Punishment or retribution was also more proximate in abuse, neglect, and dependency proceedings. Perhaps more important, the original unity of jurisdiction of juvenile courts, held together by the unity of protective service goals, was being bifurcated into delinquency jurisdiction on the one hand and dependency and neglect jurisdiction on the other. As this happened, the objectives of intervention and its focus became blurred: victims became the guilty parties. Intervention, under these circumstances, could be seen to have consequences that were reckoned in terms of rights and immunities. A breakdown in the social welfare approach to the family, family tensions, and family pathology was being signalled.

From its origin to the present period, a split in the juvenile court jurisdiction became hardened; those charged with delinquency were treated increasingly in a manner similar to adults charged with crimes. The increasing numbers of youth processed further reenforced this hardening character. According to the Uniform Crime Report for 1975, 17 percent of all persons arrested were under the age of 15, and 43 percent were under 18 years of age (16, p. 41). In addition, 30 percent of all crime index offenses (serious offenses) solved (cleared by arrest) involved only persons under 18 years of age. Considering that persons 10 to 17 years of age accounted for approximately 16 percent of the U.S. population in 1975, juveniles were disproportionately arrested for serious cases (16, p. 37).

The size of the caseload and a hardening of the criminal justice system's approach to its delinquency jurisdiction had side effects. For one, the middle jurisdiction of juvenile court--its supervision over so-called status offenders (children accused of acts which would not be offenses if committed by adults)--was being pulled toward a set of punitive responses. For another, dependency and neglect jurisdiction of the juvenile court, while retaining its social welfare character and itself serving rapidly increasing caseloads, was becoming isolated and placed in competition for funds; protective services funds were hard to come by as more funds were needed for control. The social welfare character of the juvenile court as a whole was being diminished--or lost--in the process.

Nineteen sixty-seven was a crucial year. Two events occurred. A Task Force of the President's Commission on Law Enforcement and the Administration of Justice, the Task Force on Delinquency, noted the confusion of juvenile court jurisdictions and strongly recommended drastic reorganization. Additionally, In re Gault was decided by the United States Supreme Court. The former, the Task Force report, started a chain of legislative events which culminated in the further expansion of Federal government effort in the juvenile justice field through the 1974 enactment of the Juvenile Justice and Delinquency Control Act. The Gault decision increased the sensitization of the juvenile court procedures to the "rights" of parties, particularly the rights of juveniles.

The mid-1960's wave of child abuse response was added to this context. It was added at a time when formal jurisdiction over children in all three aspects of its jurisdictions--dependency/neglect/abuse, delinquency, and status offenses--was burgeoning. Furthermore, it was added at a time of growing concern over "rights" and sensitivity to due process needs. These factors, the one affecting what the juvenile court could meaningfully do in abused children cases with already stretched resources, and the other affecting the character of its approach, were to have a profound effect on the ways that formal response to child abuse developed.

FORMAL RESPONSE TO CHILD ABUSE

Introduction

Child abuse--the physical, sexual, and in some States, mental injury inflicted upon a child by his or her parent or other full-time custodian--is formally noticed and responded to by society through three tiers of action: child abuse reporting laws, the application of child protective services (usually through the juvenile court or the family court), and criminal laws. These tiers of response mav be cumulative or they may be separate and distinct. Beyond formal response, and mainly outside the scope of this paper, lies a range of informal community intervention into the event of child abuse, or on account of the event of child abuse.

Child abuse presents a complex cluster of factors, and from a procedural standpoint represents many things. It is a jurisdictional event. It is a symptom of family pathology. It is an opportunity for constructive intervention. It can also be an occasion for the venting of community rage and instincts of retribution, either in the name of the State or on behalf of the child. In this section of the paper, the steps and the choices of formal intervention will be described. It is important, however, to bear in mind both the alternatives for informal response and the symbolic range of formal responses, because the presence of options and the complexity of response affect each seemingly discrete stage or step of formal processing. For example, what happens at a later stage, or what the reporter thinks might or could happen, has an effect on the frequency, distribution, and character of child abuse reports.

Child Abuse Reporting Laws

As indicated above, following the discovery or assertion of the "battered child syndrome," all of the 50 States and the District of Columbia passed child abuse reporting laws. This feature represented a major change in the method of social intervention because it assured both an enlarged intake of child abuse cases and a more formalized process of bringing official community attention to the event and the signal of child abuse. The four model or draft statutes--American Medical Association, United States Children's Bureau, American Humane Society, and the Council of State Governments--are set forth in the literature.

The literature on child abuse reporting laws is quite good and quite extensive. Compilations such as Brian Fraser's "A Summary of Child Abuse Legislation, 1973" (5) set forth more than adequate summaries of who has the obligation of reporting, what is reported, to whom the report is made, what is done about keeping the report (in registries), investigating the report, and what formal steps are to be taken on account of the report. The analytic literature is also quite good. Most notable are: Monrad Paulsen's "The Shape of the Legislation" (9), and Sanford Katz, et al., "Legal Research on Child Abuse and Neglect: Past and Future" (7). The empirical work, however, can be characterized mainly by its absence. Aside from Stephan Cohen's "Child Abuse Reporting: A Survey of Attitudes and Opinions in Child Abuse Reporting in Four States" (2), there is little beyond speculation about the frequency and distribution of reporting, incidence, and underreporting. There is nothing that approaches a longitudinal study of what happens in a large number of identified cases as a result of the report. This omission represents a very significant need.

Who Reports

The principal reporters under the child abuse reporting laws in the several States are physicians and health workers. This was the recommendation of the U.S. Children's Bureau draft. The American Medical Association draft, for reasons of self-protection (due to a perceived exposure of physicians to challenges to their diagnosis which would be limited to observed evidence of abuse or neglect without consideration of other information), suggested a broader range of reporters. Accordingly, several States broadened the base of the reporters to teachers and other school personnel, social workers, and law enforcement personnel. Four States have universalized the base to "anyone having knowledge of child abuse" (9, pp. 6-7).

The conflict between the AMA draft and the legislation as passed in most States nicely underscores some key points. The "battered child syndrome" which gave rise to the legislative response in the first instance was defined as a medical problem; it is a family pathology or a symptom of individual parent(s) within the family. The fashioned legislative response, even when resting heavily on the delivery of protective services to the family, necessarily deals with the syndrome of a social problem. The duty imposed on doctors goes beyond diagnosis. The doctor becomes an intake worker to the criminal justice system, the juvenile justice system, the welfare system, or some other mixture of formal social response. Dominion and control over treatment is at stake.

Hospitals and emergency units are natural places to take injured children. The screening opportunities are clear. Yet there is a felt tension between the opportunities to apply a variety of treatment modalities and the requirement that the "system" acquire jurisdiction over the event, the process, and the outcome or dispositions. The AMA draft sensed this conflict in a rudimentary way, even as it was focusing on doctor exposure.

The AMA draft, paradoxically, by enlarging the base of reporters--and hence increasing the intake possibilities--seems to be pushing the response further away from the medical model. It seems to frustrate the health professions' argument that child abuse is not a legal problem, and it highlights their impatience with legal processing.

Those States which impose reporting duties on social workers, teachers, and others reiterate the duality of response. Should the logical recipients of family confidences be under a duty to report what is reported to them (or noticed by them) to the justice system, thereby predetermining the possibility of informal intervention?

All of the reporting laws represent an exercise of a major choice. The die is cast when the system relies on third-party reporters. First-party reporting--direct rather than the symptomatic "stop me"--is shunted into a gray area. Formal self-reporting is dismissed by legislative inattention. The equation is forced away from parent education, hot lines, and self-help or informal channels.

Who do the reporters represent? Is the reporter network a distant early warning system for social breakdown, a representative of the State, the family, the child, or the profession? This is not a whimsical question. The duality felt by the doctors gets played out in the behavior of any set of professionals who have a mixed set of opportunities, diagnostic and intervention skills, professional allegiances, and social duties. Even discounting the commands of loyalty to patient or principle, the use of the therapeutic worker as a reporter has connotations of conflicting interests.

The conflict felt by the reporters and their evidenced distrust of formal legal intervention into child abuse cases undoubtedly results in substantial underreporting of noticed or suggested child abuse. A vast majority of the States make reporting mandatory. Hence, conflict between the medical worker's and the legal system's handling of child abuse cases is heightened.

What Must Be Reported?

Thus far the discussion has focused on who triggers the intake mechanism. What triggers it raises jurisdictional level issues. Depending on how child abuse is defined, the legislature is, in the first instance, setting the extent of the intervention and, to some extent, the nature of the intervention as well.

The Children's Bureau draft, enacted in several States (Connecticut, Georgia, Rhode Island, for example), requires report of "serious physical injury or injuries inflicted upon [child] by other than accidental means by a parent or other person responsible for his(sic) care..." The AMA draft and the Council of State Governments' drafts refer to "serious injuries" inflicted as a "result of abuse or neglect," while the American Humane Society draft talks of injuries which are not explained by medical histories given.

Definitional problems abound for the reporters, just as they do for a juvenile court or other jurisdiction-asserting or judging agency. The reporter is asked to make inferences and links which, as Paulsen suggests, take the reporter beyond the range of his competency (9). Moreover, the physician is faced with a seeming dilemma: does he consider what should be done medically or what should be done socially and legally? Duties, standards, and goals are mixed. Dual agencies are involved. In the first instance, even where the report does nothing more than trigger a full-scale investigation, the reporter, in the role of physician, or the physician, in the role of reporter, is asked to make a tentative jurisdictional finding; it is a finding which mobilizes a vast array of societal responses. Moreover, these findings are frequently subjective. Underlying all of this, particularly in those states that include an identification of the perpetrator in the definition of what is to be reported, is the accusatory nature of the report.

Since the original wave of child abuse, sexual abuse of adolescents has received more attention. This too becomes a set of "injuries" which the reporter must report. As will become more evident from the discussion of privacy issues to follow, the reporter for these cases may be placed in a particularly perplexing dilemma.

Report to Whom

As Katz, et al. point out (7), reports are sent to three basic resources, often all at once. In 42 States, reports are sent to the county or State departments of social services or public welfare; in 10, they are sent to the juvenile or family courts; in 2, they are sent to court-designated agencies; and in 35 to law enforcement officials, such as prosecutors, local police, sheriffs, or State police. Only 19 jurisdictions (including the District of Columbia) limit the report to a single resource.

The designation of the agency receiving the child abuse report is, or can be, critical in theory as well as in practice. It can color the nature of subsequent social response as well as subsequent actions and reactions of those most intimately involved--the parents and the children. Where a social welfare agency is the recipient of the child abuse report, the threat of subsequent action against the parent may not seem so imminent. It matters not what the reality is. Labels and symbols are important here, particularly in a context where there is or might be suspicion of law enforcement agencies, or of the law enforcement character of the juvenile court. (Remember, the juvenile court has a dual appearance, as a welfare agency and as a law enforcement agency.) Parents may feel more cooperative with the first line of interveners if they feel that protective services (treatment and other forms of positive intervention) are the likely results of intervention rather than retribution or retaliation. On the other hand, the threat of punishment, for some, may be an essential ingredient of enlisting their "cooperation."

The duality of response to child abuse is clearly involved in the indicated range of report-receiving agencies. While social service agencies are the most frequently designated recipients, law enforcement agencies are a close second (43 to 35). The most frequent form of the legislation is that the reporter must report to the welfare agency, and he or she may also, at his/her discretion, report to the law enforcement agency. Where there is present danger of immediate reinjury, the reporter, in some jurisdictions, must report to the law enforcement agency.

The low preference for the juvenile court as a report-receiving agency (11 States) in the first instance is something that should be kept in mind; it may be a legislative comment about the initial screening capacities of juvenile courts. This will be discussed later. For now, however, the remaining question is: does our conception of the juvenile court assume that the court depends on social service work-ups for its effectiveness?

What Happens on Account of the Report?

Another critical issue in child abuse reporting laws is what happens when a report is received. Child abuse reporting laws, for the most part, break down once the report has been made. This is due principally to faulty legislative mandate. The reports are somehow viewed as either self-executing or, magically, as ends in themselves. The most that is usually required is an investigation. The rest is discretionary. There is usually no mandatory docketing or screening mechanism. There is little accountability. Before commenting further, the declared legislative purposes of child abuse reporting laws need to be considered to determine the reason why this faulty legislative mandate occurs. There are, according to Brian Fraser's prototypes, three purposes for child abuse reporting laws (6). The first type (Type I), exemplified by Delaware, merely states that the purpose of the legislation is "to provide for the protection of children;" there is no indication of how this is to be done beyond the creation of a report on the event of child abuse. The second type (Type II), found in the Children's Bureau model law, declares that reporters should report "...thereby causing the protective services of the State to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses." Type II goes no further than Type I. Nevertheless, it does assume an established and regularized mechanism in other cases (dependency and neglect cases) for processing complaints and "bringing the protective services of the State" to bear.

Type III, as exemplified by Colorado's 1972 law, provides:

> In order to protect children whose health and welfare may be adversely [affected] through the infliction, by other than accidental means, of physical injury...the general assembly hereby provides for mandatory reporting...by doctors and institutions...It is the intent...that *as a result of such reports, protective social services shall be made available in an effort to prevent further abuses, safeguard and enhance the welfare of such children, and preserve family life wherever possible*. (emphasis added)

It is important to note that Colorado's 1972 child abuse reporting law did not specify the reporting of child neglect incidences. By 1976, however, it was revised to include neglect, with a separate definitional section. This expansion of the reporting law to include neglect is occurring nationally; however, although non-accidental physical injury (abuse) is a reportable condition in all 50 States and the District of Columbia, neglect is a reportable condition in only 47 States and the District of Columbia. As of 1977, Indiana, Maryland, and Wisconsin did not list neglect as a reportable element under their reporting laws (5, p. 3).

The intent of Type III legislation is more comprehensive. *Something* is supposed to happen as a result of the child abuse report. The Colorado law, like others, provides for investigation--in this instance by the county welfare department--and it provides that the welfare department shall "advise" the law enforcement agencies of the results of the investigation. It also does more:

it states that the county welfare department shall provide the necessary social services and that it may take further legal action.

According to the mandates of the Colorado statute, screening and the provision of protective services is placed outside of the juvenile court, and the welfare agency is vested with discretion as to whether additional remedies (legal responses) will be sought (6, pp. 206-207). By being advised, the law enforcement agencies also have discretion about appropriate legal response. Responsibility, however, rests with the welfare department in the first instance. In a curious inversion, the designated report-receiving agency under Colorado and Type III laws is the "proper" law enforcement agency. Their only mandated responsibility is "to refer" the report to the county welfare department. Presumably this adds an element of accountability. Even Type III laws make assumptions that, apart from the invisibility of many child abuse incidents and "cases," once the authorities are aware of such instances, they will act appropriately. Assumptions are also made about the availability of "necessary social services."

The main difference between Type III and Type I and II laws is the fixing of the most discretion in the agency also responsible for delivering the treatment, i.e., in the welfare department. There is silence in Type III, as there is with Type I and II, as to what increased role the juvenile court should play in the cases discovered through the reporting laws. Indeed, even where the juvenile court is the report-receiving agency, there is an assumption that it will act as it usually does in cases of neglect, dependency, and abuse. Type III seems to have a silent assumption about the desirability of keeping child abuse response out of or away from the juvenile justice system. Presumably, however, where indicated, arrangements for alternative custody--temporary or permanent--need to be sought in juvenile court. Social service agencies are the first line coordinators of both formal and informal resources for helping the child, the parents, and the family.

To the extent that protective services are not available in the community, either public or private, even Type III laws are suggestive that they should be. Notwithstanding the mandate to provide necessary social services, where the same are not available or are not available in realistic quantity and quality, Type III laws become like the other two types. They express a wish that something happen as a result of the child abuse report, and leave it to the discretionary range of child abuse report receivers, investigators, and the reporters themselves to determine what that something might be.

The incomplete legislative mandate about what is supposed to happen is dangerous. The new wave of child abuse is premised on legislative findings about the medical nature of the child abuse "problem," and about the appropriateness of preventive and protective social services to remediate the problem. By leaving a gap in the follow-up stages and, consequently, a large range of administrative discretion about the type of response and follow-up, the legislators have created or further sustained a confusion about the appropriate response to child abuse. Even while having a medical or a social service model in mind, the legislators may have unintentionally created a greater opportunity for punitive and other inappropriate response. Increased intake resulting from child abuse reporting laws, bringing both the event and the horror of child abuse incidents to the attention of a wide range of law enforcement and other nonsocial service personnel who are not directed as to what they should do, seems to assure the increased probability of inappropriate response. The very measured responses sought by the legislators, in their eagerness to address the specific indication of the "battered child syndrome" in the 1960's, is defeated by the incomplete nature of the legislative mandate. The events of child abuse are broadcast outside of the medical and social service community; the subsequent responses are neither controllable nor predictable; and the frustrations with "legal" handling of these cases are increased. Moreover, when one considers the responses of the juvenile justice system, the highlighting of a jurisdictional event without the assurance of an appropriate range of fully funded protective services at the disposal of that system creates a special type of problem.

Funding of protective services by the legislature or the absence of funding is a further indicator of the degree of completeness of the legislative mandate. Where effective public protective services are funded, and accordingly available, or where provision is made for the purchase of private services even where the steps following the report are not indicated, those with broad discretion, both inside and outside of the law enforcement and juvenile justice agencies, are likely to avail themselves of those resources. The follow-up steps to child abuse reports will be filled in a more rational and predictable manner; administrative convenience will lend its strength to the evolution of planned intervention. Where funding does not occur, the reluctance to make a child abuse intervention is underscored.

Records and Registries

Keeping records of child abuse reports--most frequently in central registries--is another feature of child abuse reporting laws which bears examination. The record-keeping feature further illustrates the incomplete legislative design. It also raises, initially, some of the more basic questions about family privacy and due process.

Most States require the maintenance of child abuse reporting registries. The legislative rationale for this record keeping is finding that child abuse is a recurrent symptom of a deeper parental or family pathology, that diagnosis of doubtful cases (where accident and abuse are both possible explanations of a subject injury) is made easier if the injury can be fit into a pattern of past injuries. Moreover, by allowing seemingly unrelated events to be related to one another through central registries, families are less able to hide their "problem" from the community. The difficulty with the rationale is that registries are at one and the same time a diagnostic tool, a criminal identification process (like fingerprinting), and an invitation for abuse of parental rights. Much depends on who uses these registries and for what purposes.

Few States limit access to only the potential reporter group. Therefore, something more than diagnosis is invited. Further, as law enforcement, social service, and juvenile justice personnel have access, the uses that can be made of these reports, notwithstanding their probable inadmissibility in formal judicial hearings, is as broad as the discretion of such personnel. The reports, taken as a whole, can be used to tailor a plan for positive intervention for a specific family; to coerce "cooperation" from the parents; or, as the occasion may be, to infer criminal intent. The fact few safeguards have been added to test the reliability of the report, to catch up with the report in these registries, to expunge spurious reports, or to limit access, invites considerable abuse of individual rights.

Diagnostic and administrative judgments, made on the basis of these registries (i.e., on the report itself) can result in an abuse of due process, the taking of the child, the imprint of stigma, and intrusion into family privacy without an opportunity to be heard. Indeed, it is this record-keeping feature which is currently under appeal by the United States Supreme Court. In Moore v. Sims (U.S. Supreme Court, Docket No. 78-6), the Supreme Court has noted probable jurisdiction and will consider whether a hearing must precede even emergency separation of the child from its parents and whether an abuse report can be placed in a registry without a hearing.

It has been found by a three-judge Federal court that the provision in the Texas Child Abuse Reporting Act allowing placement of a child abuse report in a central registry is an unconstitutional invasion of privacy and a denial of due process. This finding, it appears, was assisted by the fact that use of the reports for law enforcement as well as diagnostic and treatment purposes had not been regulated by the State legislatures. Here, then, is the fundamental dilemma of child abuse response: rights and interests are necessarily threatened; this threat in turn demands both representation and protection as long as the range of potential--or even likely--response includes imprisonment, stigma, and separation of children from parents. Approaching child abuse as a legal problem with potential or avowed adverse interests or proceedings is not viewed by the medical or social welfare community as conducive to either successful or positive intervention. Disregarding the rights of the parents and the children in the name of positive intervention, however, is seen by others, including the courts, as creating many problems as well. This dilemma will be discussed later in this paper in relation to the duality of a welfare and legal approach.

Privacy

Although privacy interests were raised and discussed in connection with the keeping of child abuse records, the permeation of privacy interests bears separate treatment. Child abuse reporting laws, requiring a record of an intra-family event (or pattern), have privacy implications that affect not only subsequent legal and community responses and exposures, but also raise questions of privacy that touch on the doctor-patient relationship and the self-image of individual members of families [most notably the abusing parent(s)]. In the first instance, the relationship between the patient and the doctor may be seriously altered by the requirement that the doctor assume the role of reporter as well as occupy a confidential relationship with the patient. From the doctor's viewpoint, the therapeutic milieu may be undermined. This aspect has community implications. Is the reliance on the therapist in the reporting laws a counter-productive measure? Is an important treatment resource compromised? It also and more importantly has implications for the patient-parent and patient-child. It deprives them of a confidential resource, the actuality of which depends on their now-diminished sense of trust. This intrusion, too, can be reckoned in terms of public policy on child abuse: it may diminish self-reporting or the seeking of help.

The self-image aspects of privacy are related to the labeling theory. Once a child abuse report is filed, the parent is more likely to think of himself or herself as an abuser and the child as a victim. It is beyond the scope of this paper to assess whether this view is conducive to rehabilitation. It does, however, have implications of stigma which need to be considered, and indeed are before the Court in Moore v. Sims.

Child abuse reports may also trigger a pressure on the non-abusing parent to relate to authorities the facts of the abuser's behavior. This raises yet another aspect of privacy, that of the special husband-wife relationship. Additionally, there are the child's distinct privancy interests that need to be considered.

There is a particular segment of recent child abuse policy and practice that is concerned with abuse of adolescents (with focus on sexual abuse) which dramatically raises privacy interests distinct from those of younger children (8). The Supreme Court has, for example, held that laws which require parental approval of abortion for minor females are an unconstitutional invasion of those privacy interests (4). Similarly, direct, not representational, privacy interests are involved in the relationship of adolescents and physicians. When considering child abuse reporting laws, there are, accordingly, special problems for physicians, parents, and the children. Breach of confidentiality and duty to the victim are directly involved. This is a breach which is not fully avoided by limited access rules of expungement or impounding precautions. Privacy is trickier than that; it relates to a state of mind, to a view of self, hardened not by the record itself but by the fact of reporting. Here again is where the labeling theory and child abuse reports meet.

Before leaving rhe discussion of the reporting laws, some of the areas where more knowledge is needed regarding the operational aspects of the laws are noted.

- Imbalance of Intake, Processing, and Disposition

  Have child abuse reporting laws caused an imbalance of resources and emphasis on intake, processing, and disposition in (a) social service agencies, (b) juvenile courts, or (c) other agencies? If so, has this in turn led to informal accommodations on the part of these agencies, such as not thoroughly investigating reports, or making inferences or judgments from the raw reports themselves? There is a need to know empirically, based on a relatively large number of cases, how the reports are handled, what happens procedurally as a result of the reports, as well as what happens to the parents and children subsequent to the making of a child abuse report. The legislature has, to some extent, invited an imbalance of intake, processing, disposition, and follow-up. There is also a need to see the actual administrative filling in of this large gap.

- Coordination of Effort Between Social Service, Law Enforcement, and Juvenile Justice Agencies

Child abuse reporting laws implicitly assume a coordination of community effort. Yet they also by the array of report-receiving and follow-up agencies, and by the gaps in assignment follow-through responsibilities, assure a division of and a competition of responses. Federal intervention, too, split between the welfare community and the juvenile justice community (through the Child Abuse Treatment and Prevention Act of 1974 and the Juvenile Justice and Delinquency Prevention Act of 1974, both as amended), assumes cooperation and assures competition. Throughout its long history, the juvenile court has been a focus of both formal and informal coordination of community resources designed to protect children or serve children. There has been an imperfect give and take over control, responsibility, and competence of court and non-court agencies to meet the child's needs. Social welfare agencies, frequently assigned screening roles for the juvenile courts, have sometimes worked well with the court. At other times they have worked poorly together. Child abuse reporting laws, however, for the most part, have assigned a secondary role to the juvenile courts. What has been the effect on the long history of formal and informal coordination?

There are some signs that there is a breakdown of coordination in the instance of child abuse. The literature reflects a social welfare community distrust of formal court intervention, and even of juvenile court involvement, as being inappropriate in child abuse cases. The same literature, however, recognizes the need for formal court intervention in some cases. There are steps that can be taken to fix coordinating responsibilities to assign nonconflicting roles and diminish inter-agency distrust. Before those steps can be refined, though, it is necessary to understand the actual degrees of coordination or lack of coordination in child abuse cases. No such data, other than on an anecdotal basis, is now available to us.

- Underreporting

  There is some speculation that child abuse is substantially underreported and that some of the underreporting is caused by the reporting laws themselves (3, 7). An extensive review of child abuse reports should shed some light on this problem because, as indicated by child abuse research, child abuse knows no socioeconomic, ethnographic, or geographical boundaries. If there is underreporting of child abuse, there could be a skewing of distributions of the reports actually made. The imposition of reporting responsibilities on the medical profession alters the classic intake lines for the juvenile justice system; the poor, heretofore, coming under official scrutiny more frequently than the middle-class and rich. Medical attention, however, is not distributed along these lines. Are there mechanisms whereby the middle-class and the doctors ministering to the medical needs of the middle-class allow an escape by some from the provisions of child abuse reporting laws?

CRIMINAL LAW RESPONSES

Of the three tiers of response to child abuse, the responses of the criminal justice system are the easiest to deal with analytically. Numerically and proportionately, the criminal justice response is minor. Yet its impact is major. What unlocks this seeming paradox is the effects of the threat of criminal prosecution. It is the threat of criminal prosecution that permeates the entire chain of child abuse responses: self-incrimination, privacy, and due process issues are raised at the threshold of response--at the reporting stage--and continue through each stage until the threat is removed, actualized, or, in the alternative, traded for cooperation. The threat of prosecution affects the attitudes and behavior of all of the actors: they include the reporters, the parents, the child, and the intervening social workers (whether they be intake workers or therapists), not to mention the prosecutors and judges. The threat can be seen to have both beneficial and detrimental effects.

The beneficial effects of the threat of criminal prosecution can be reckoned in terms of deterrent theory and in terms of getting agreements from reluctant parents for treatment plans or for alternative custody plans. The detrimental effects need to be reckoned in terms of distrust of legal handling of child abuse, underreporting, and in terms of hardening the adversary lines of State intervention.

Criminal justice treatment of child abusers remains substantially unchanged in the recent wave of child abuse legislation. Some States have modified their substantive law to more particularly deal with harm to children. Mainly, however, the substantive law base that is brought to bear on abusing parents is the State's criminal code provisions for murder, mayhem, assault and battery, rape, and child molestation. The difficulties with criminal prosecution in child abuse cases lie not in the substantive law base. They lie in the inappropriateness of the "remedy" and the evidentiary and testimonial problems encountered in such cases. Most legal and nonlegal commentators agree that a criminal law response is inappropriate. This is mainly because it does nothing constructive for the child and is, in many instances, a positive harm to the child because the victim-child must testify against the accused-parent. The legal commentators, for the most part, however, are unwilling to altogether remove the possibility of criminal justice response to child abuse. They recognize that the difference in dimension and level of response gives vent to political pressure, community outrage, and those ever-present impulses to exemplify by the transgressions of others, and to retaliate in extreme cases.

The decision whether to prosecute in child abuse cases remains where it always has been--in the prosecutor's range of discretion. It is the prosecutor who must balance the factors referred to, although such decisions, unlike juvenile court decisions, are rarely taken in concert with a social service report. Indeed, there is no requirement that the prosecutor think in terms of the "best interests of the child."

Child abuse reporting laws, particularly those laws that make law enforcement agencies the recipients of the reports, potentially increase the number of cases that the prosecutors' offices are offered. This is true, even though most cases are screened at the police or sheriff intake and investigation steps. The role of the police is slightly more complex because, as complaint or report screeners, they have the option to refer the matter for prosecution or refer the matter to the juvenile court for remediation. It would be beneficial to know how the reporting laws have affected police and prosecutorial judgments.

THE RESPONSES OF THE JUVENILE JUSTICE SYSTEM

Introduction

Like the criminal justice system, the formal role of the juvenile justice system in reference to child abuse cases has been altered very little by the 1960's and 1970's wave of child abuse legislation. The juvenile court, from the beginning, has had formal jurisdiction in cases of child abuse. Child abuse, neglect, and dependency together make up the dependency jurisdiction of the juvenile court as distinct from its jurisdiction in delinquency cases. It also retains jurisdiction in child abuse cases today. Unlike criminal justice responses, however, the practical role and influence of the juvenile justice system has changed in the most recent wave of child abuse legislation, and it remains in flux. This is due partly to unresolved legislative ambiguities about dominant and coordinate roles of welfare, law enforcement, family and juvenile justice agencies. These ambiguities have been heightened by the dual nature of Federal involvement, through both the Child Abuse Treatment and Prevention Act and the Juvenile Justice and Delinquency Prevention Act. Partly, it is due to the noted intrinsic duality of the juvenile justice system itself. It is a welfare agency and it is a law enforcement agency. Partly, it is due to a set of complexities about what it is that is called the "juvenile justice system."

In a narrow sense, the juvenile justice system consists of the formal exercise (or non-exercise) of the jurisdiction of the juvenile courts (and family courts as they pertain to children). In a broader sense, juvenile justice consists of the formal treatment of children in our society, whether they be victims, perpetrators, or simply pose problems of control and regulation. In both senses, juvenile justice consists of the exercise of the State's parens patriae powers; children are the ultimate responsibility of the modern State, even as parents exercise a day to day stewardship over them.

Leaving aside delinquency jurisdiction, the juvenile justice system, even in a narrow sense, involves far more than the juvenile judges and other court personnel. This is because that court depends, as it always has, on intake from those who notice family breakdown or child endangerment. And, it depends as it always has on corrective resources--namely protective services in the community--which are not part of its table of organization. In this sense, the police have always been part of the intake stage of juvenile courts, just as have been neighbors, teachers, and even parents. In this sense, too, the social welfare community has been inextricably involved in the screening, processing, and disposition stages of juvenile courts. Indeed, that was the original legislative intent of the founders of the juvenile court. As such, it remains both the implicit and explicit intent of today's policymakers. The central charge that children are entitled to special protections reflects this. So, too, do the operational and dispositional standards that require the base of intervention and the base of resolution to be in the "best interests of the child." To understand the present role of the juvenile justice system in reference to child abuse, it would be best to first outline the stages of juvenile court intervention and then locate the problems involved in, or asserted to be involved in, juvenile court responses to child abuse.

The Stages of Juvenile Court Processing of Child Abuse Cases

Intake

The juvenile court, like most jurisdiction-exercising agencies, depends on complaints being made to it. Organizationally, the juvenile court requires the intake services of others who come in contact with children in trouble, either through their own actions or the actions of others. The important thing to bear in mind is not the identity of the intake workers, but the range of discretion they have to refer a matter to the juvenile court. Rarely, except in delinquency cases, has the juvenile court been the exclusive agency of remediation. Indeed, even in delinquency cases, the range of discretion left with the police allows room for "station house adjustments" and release to parents.

Child abuse cases are no exception. The juvenile court depends on other case finders. In very few instances (only 10 jurisdictions) do the child abuse reporting laws require that the report be sent to the juvenile court. Others, therefore, either bring the case to the juvenile court, drop the matter, or take it elsewhere. A child abuse case that finds its way to a hospital, a treatment program, or to the social welfare community need not be referred to the juvenile court unless: (a) such referrence is mandated, or (b) the referer is seeking the formal exercise of wardship jurisdiction. In the latter instance, the juvenile court is the exclusive agency. Where removal of the child from the home is deemed by others to be desirable, they must refer the matter to the juvenile court, because the finding of wardship jurisdiction is a necessary antecedent to removal.

Child abuse reporting laws significantly add doctors and other medical workers as realistic potential intake workers for the juvenile justice system.

Screening

The juvenile courts have limited screening personnel. The probation branch of the juvenile court--sometimes referred to as the "social service" branch--is assigned the responsibility of determining whether the court should be asked to exercise its formal jurisdiction. This requires investigation of both events and context. The child's condition and present circumstances are proper subjects of investigation as are the family's susceptibility to being buttressed by protective services.

Most jurisdictions either allow for or require the delegation of much of the investigation to the appropriate public welfare agency in the community. In California, the County Departments of Social Services are the mandated screening agency for the juvenile courts in child abuse cases. As can be seen from this example, there is legislative contemplation of cooperation between the juvenile justice and welfare agencies.

Like the intake stage, the screening stage also contemplates and allows for an information adjustment or resolution of the "problems" brought to the court. This would be pre-jurisdiction diversion. Protective services can be matched with needs at this stage, obviating the necessity of filing a formal petition with the court. In historical terms, this is where the vast majority of dependency, neglect, and abuse cases are disposed of; an informal plan is evolved, with the juvenile court social service wing using its presence as a coordinating agency.

It can be seen that the screening stage, unlike the intake stage involves two additional features: consideration of what can be done and the presence of coercive power. The threat of proceeding formally is often enough to enlist the cooperation of parents in a treatment program or indeed, as has often been the case, in a "voluntary" foster home placement. Beyond coercive threat, however, there is another difference between intake and screening. The "case" has been docketed in the juvenile court, and presumably there is an accountability even if the matter is diverted through more or less informal resolution.

In the case of a child abuse complaint that cannot be informally adjusted and is deemed by the screening agent to warrant the formal exercise of jurisdiction, a formal petition is filed with the juvenile court.

Formal Petition, Hearing, and Adjudication

The formal petition seeks the exercise of the juvenile court's wardship jurisdiction. Child abuse is part of a general dependency and neglect jurisdiction, but it is a more easily defined standard for intervention. Indeed, the ease of the standard for intervention in child abuse, consisting of intentional physical injury to the child (sometimes mental and emotional injury), allows for formal intervention even where it is not clear what can be done to remedy the threat of future harm or ameliorate the present injury. This is a problem which is persistent here: the clarity of the jurisdictional event invites response independent of the basis of intervention, i.e., the delivery of protective services.

The hearing on the petition is formal. Evidence is taken relative to the injury, which is the jurisdictional event. The standard of proof is not a criminal standard of proof. "Clear and convincing evidence" and "a preponderance of proof", rule, as against "proof beyond a reasonable doubt." But the hearing is sufficiently adversary in character to assure identification of party interests and to warrant representation of those interests.

The finding of jurisdiction and the formal declaration of wardship is, in theory, separate from the disposition stage, the determination of what will be done. The juvenile court, particularly in the exercise of its delinquency jurisdiction, has had a long history of either blurring the distinction between jurisdiction and disposition or inverting the stages so that a consideration of what can be done or "should" be done has often preceded a determination of whether the court had jurisdiction in the first instance. The U.S. Supreme Court, in In re Gault (387 U.S. 1 [1967]), put an end to this practice. Even though the same problems are not presented by dependency, neglect, and abuse jurisdiction, the impact of Gault upon juvenile courts has been sufficiently great that one must think in terms of separate jurisdictional and dispositional stages, even though in reality the stages still overlap. Or, at least the functions overlap.

The Dispositional Stage

After asserting wardship jurisdiction, the court must decide what will be done, require treatment of the parents or the child, require treatment of the family, continue the child in the home, or separate the child. Again, the social service work-up plan or recommendations are needed by the court. The legislative purpose and reality should be considered in order to understand the dispositional stage.

In child abuse cases, the preferred legislative model is the delivery of positive protective services with separation of the child being the least preferred alternative. In reality, to the extent that such services are not available to the court, the dispositional stage of the process is likely to reflect impulses other than protective impulses. Many of the problems noted can be referred to this juncture.

As in the screening stage, at the dispositional stage the juvenile court is dependent on the social welfare community for the necessary resources. Also as in the screening stage, the accountability of those resources to the juvenile court is apparent, but here it is even more so. The case is not merely docketed now; the child is an official ward of the court. This accountability is managed through the review stage.

Review Stage

Periodic reviews of wardships are required by juvenile court laws. When should treatment end? Is it working? Should something else be done? Are the court's orders being carried out? Is there service delivery? These are the questions that are asked at the review stage. In child abuse statutes, because of the perceived threat of reinjury, the periodic reviews are shorter than in other cases. In cases where the child has been placed out of the home, the trend has been toward shorter periods between reviews. The determinations upon review relate to whether the family can be reunited, or whether, if together, they can now continue without further intervention. The ultimate review ends with a formal termination of the court's jurisdiction.

THE PROBLEMS AND DYNAMICS OF JUVENILE COURT INTERVENTION IN CHILD ABUSE CASES

The Adversary Character of Intervention

The threat of removal of the child from the home is sufficient to assure, under Gault standards, that the hearings of the juvenile court in child abuse cases must conform to certain due process standards, such as that parties are entitled to representation and that jurisdiction must be found in a more or less formal manner. This feature has drawn the criticism of the welfare and medical communities as being an inappropriate model for social intervention in child abuse cases. It is said to harden the lines of intra-family communication, undermine the potentials of therapy, and replace clarity of intervention with the uncertainty of final formal dispositions. To some extent, the criticism itself is a displacement. Independent of adversary intervention, the results and nature of welfare intervention are far from certain.

The adversary character of the juvenile court proceedings can be held in bounds in two ways. A showing of the beneficial effects of certain types of intervention, coupled with resources that diminish the threat of separation of the child from the parents, would enable the court to dispense with many of the more disturbing features of adversary hearings. Under Gault, if intervention is truly benevolent, the reviewing courts will tolerate informality and relaxation of standards. This happens, as a practical matter, during the pre-filing and pre-hearing screening matching of need and resource. The rules of court--by statute or by court restraint--can require a more substantial hearing at the disposition stage where there is contemplation of removal of the child. California requires a higher degree of proof in a hearing in which wardship is declared, where the disposition includes removal of the child. In child abuse, where jurisdictional findings are relatively easy, this mechanism can be used to reduce the threat which permeates even the initial formal intervention. Moreover, the mechanism assures, to some extent, that the least restrictive dispositional modes of "protective services" be considered first.

In the final analysis, the arguments about due process are, to a great extent, misleading. The juvenile court has no more and no fewer resources for positive intervention in child abuse than exist in the general community. All of the modes of treatment which are available to the community before formal intervention are available after. Indeed, this is the range of choices most frequently utilized by the juvenile court in cooperation with the social service agencies, first during the pre-filing screening stage and later in the dispositional recommendations. The retention of due process assurances in juvenile court hearings reflects realistic suspicions about what resources are truly available in the community for the moderation of child abuse. Except for separation of children from their homes, the court is simply a coordinator and a coercive applier of alternatives for resolution available elsewhere. Furthermore, it becomes the enforcer of the unpleasant alternatives, where resources are unavailable in the community.

Due process guarantees can be viewed in a positive manner as a safeguard not only of the rights of individuals, in the extreme, but of the reality of the benevolent intent of intervention and as a balancing mechanism between the seriousness of the injuries perceived and the seriousness of the remedies applied (2).

Lack of Competence and Coordination

The side effects of professionalism and bureaucratic jealousies may be affecting the process. The juvenile court depends primarily on the social work community for the functions of intake, screening, and disposition. This fact, however, is overlooked even by the social welfare agencies involved with the court. Control issues and jealousies over jurisdiction, more than issues of competence, workability, or the possibility of coordination, seem to dictate the terms of this perceived problem.

Historically, the juvenile court has required and received a high level of cooperation between workers in the juvenile justice system and those in the social welfare community. There is, as discussed earlier, heavy dependence on social welfare inputs at the intake, screening, and dispositional stages. Interestingly, neither the court nor juvenile justice workers have ever been viewed suspiciously by the welfare community over their intake functions. This is probably because the welfare worker, up to the point of referral, retains both control and the capacity to supervise a resolution or amelioration of the problem. It is only after referral and after assertion of wardship jurisdiction that the welfare community voices a disagreement with the methods and results of the juvenile justice process. Paradoxically, the welfare workers contribute equally to the latter stages as to the earlier stage. This suggests irritation with the fact that their input is not always controlling, and with the fact that they do not have the final say. Again, paradoxically, by referral in "hard cases," the social welfare community has sought or bargained for the power of coercion that goes with assertion of jurisdiction, and has thereby lost control over the outcomes of cases.

In child abuse intervention, the assertion is often made that the juvenile justice system should be avoided at all costs, both because of methodology and relative competences for intervention. This is tantamount to saying, "we can do it without the court." There is, by this assertion, a request for both jurisdictional and supervisory power. The argument is not unlike the original arguments that led to the creation of the juvenile courts in the first place.

Stepping back and recognizing the reality that surrounds the juvenile court, it can be seen that the only expertise or competence that the court possesses is the tradition that has gone with the exercise of power to balance competing interests and make decisions. This is a competence not possessed by the welfare worker. The juvenile court possesses no independent expertise as to "right" solutions. It can only review and test the appropriateness of the solutions that others proffer. Indeed, juvenile court laws in the dependency area have mandated reliance on the social welfare community. This suggests a fertile base for coordination even in an area as sensitive as child abuse policy, where judicial tampering is suspect.

Neither the competences of exercising power and balancing rights and remedies, nor the competences of social evaluation and planning for positive protective intervention into the family displace or dispose of the other. Both sets of competence are needed. This means that the coordinate roles of both need to be spelled out. This has not occurred in the child abuse area. The duality of Federal agency interests (essentially HEW and OJJDP) and of State agency interests requires that this be done clearly.

Two specific plans do attempt to more fully spell out the coordination between the court and social services. One is the draft of the Joint American Bar Association and Institute of Judicial Administration on Juvenile Justice (1). This plan suggests a legislative approach which at each step in the process blends social service and juridical techniques so that intervention, decision-making, dispositional plans, and the delivery of services are approached as a joint social welfare-juvenile justice product throughout. The other plan, the demonstration project of the Juvenile Court of Los Angeles, funded by HEW, is attempting at a working level to cross-educate the two disciplines of judging and social service, so each will have a better understanding of the other.

Multiplicity of Standards, Interests, and Voices

The most complicated aspect of juvenile justice, present in all of its activities in child abuse response, is the variety of standards that can be applied, the many voices that are heard, and the many interests involved. In the standards, "best interests of the child" is a wholly different approach than "fitness" of the parent. Yet both are involved in child abuse policy. The one relates more to child welfare and the plan for the child's future (i.e., the dispositional aspects of the case). The other, parental fitness, relates more to the past and to what we feel about the parent as distinguished from the child. Results are affected by which standard is applied. Often they remain mixed.

In terms of voice, even when standards are speaking only in terms of the child's interests, many parties or persons claiming to speak to that interest are involved. They include the parent, the State, the health workers, the social workers, and even the child, directly or through yet other representatives. In terms of interests, again there are the interests of the child, the parent, the State. State interest in the child is complicated by present concern and by concern over what the child will become.

Child abuse response does not allow for easily reducing many of these multiplicities. For example, starting with a symptom of breakdown or pathology as a triggering event, one may end with a plan for the child or the family; throughout, concerns for the child alternate with a range of feelings for and about the parent.

No simplifying model is apparent. The most that can be hoped for is a constant consciousness of the complexity of intervention and some willingness to live with complex forms.

Paradoxically, the addition of one more voice, that of a child's advocate speaking from the child's perspective at every stage of the proceedings, may assist in the process of operational simplification.

Guardian Ad Litem

A guardian ad litem or child's advocate could, at each stage of the proceeding, ask for the child one question: what are you going to do for me? This question seems only to relate to disposition and plans for disposition. It goes further than that, however, It can relate to plans for intervention in the first instance, to mobilization of both formal and informal community resources, and to a testing of the intent, direction, spirit, and reality of each stage of intervention. At the bottom line, shaping the efficacy of any child abuse policy is not a set of questions about rights, but a set of answers to the question we have asked the guardian to ask: what we intend to do for the child, what we can do for the child, and what we have done to or for the child. Again, in gross, empirical data supplying these answers for a large number of cases can greatly simplify many of the questions we would ask but are forced to reserve at present.

In re Gault is a beacon. There, the Court seems to suggest that if the intended benevolent treatment of delinquents had in fact been delivered, the Supreme Court would have tolerated substantial departures from traditional due process guarantees. Here too, simplification lies not so much in the promise of conception as it does in the promise of hard data about the plans and results of well-meaning intervention. At one level, a researcher is needed. At another level, a guardian can ask the same questions and receive the same assurances.

SUMMARY AND CONCLUSIONS

From the outset, with the most major revision of child abuse policy, the child abuse reporting laws, there are built-in gaps. Detection of the problem area is expected, but not assured. The basis of intervention is defined, but resolution is unexpressed. New responsibilities are added to existing structure without sufficient executing or coordinating mechanisms.

Rights are involved. In the present state-of-the-art, however, both over-attention to rights or inattention to rights exaggerate the mutual distrusts of the therapeutic, social welfare, and juvenile justice communities. Bureaucratic competition adds to this distrust.

The legislatures have created or allowed a vacuum of power to exist. The juvenile justice system, necessarily assumed but not specified in child abuse reporting laws, continues to play the coordinating role it always has played not only in child abuse cases, but in its general neglect and dependency jurisdictions. However, in the new wave of child abuse responses, the role of the juvenile justice system is not clearly defined. As a result, the involvement of the juvenile justice system in child abuse and neglect cases is viewed as suspect by child protective services and other agencies working in the area.

Legislative clarification of roles is needed. But before that can occur, there is a need to know more about the reality of programs (i.e., delivered protective services), their impact, and more about the total caseload (whether handled formally or informally) stimulated by the child abuse reporting law. In many ways, it appears that a shadow juvenile justice system relating to child abuse cases has evolved without the authority, responsibility, or accountability of the official system. To call this situation undesirable is, at the very least, an understatement.

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APPENDIX C

SYNTHESIS OF LITERATURE ON LINKAGE BETWEEN CHILD ABUSE, NEGLECT, AND DELINQUENCY

INTRODUCTION

The major objective of this paper is to provide an assessment of research in the area of child abuse, neglect, and delinquency to assist Federal and State agencies in developing programs for children who have been abused or neglected. As will be seen throughout this paper, important and substantial links between child abuse, neglect, and juvenile delinquency are supported by research findings.

The paper is divided into two parts. Part I presents the assessment of the literature which deals with the possible linkages between child abuse, neglect, and juvenile delinquency. Part II of the paper is concerned with recommendations for action to be undertaken by Federal agencies in light of the findings of this assessment.

Part I contains four sections. The first major section deals with the historical link that has existed since the early part of the 19th century between neglected children and the juvenile justice system. While this link has been essentially without formal authority, it shows a tradition of intervention of the juvenile justice system into the lives of abused and neglected children.

The second major section deals with the linkage between child abuse, neglect, and juvenile delinquency in terms of the empirical evidence that is available from studies. Essentially, this section examines child abuse and neglect as causal factors to delinquent behavior. Examining the studies that report empirical evidence on this issue, it appears that the bulk of evidence indicates that there is a substantial relationship between child abuse, neglect, and juvenile delinquency.

The third section deals with the link between the labeling of abused and neglected children who have contact with the juvenile justice system and their adjudication as "status offenders" or "juvenile delinquents." Essentially, the issue being raised in this section of the paper is whether abused and neglected children processed and adjudicated by the juvenile justice system are handled any differently than non-abused and neglected children.

The fourth section deals with the need to develop a broader base of knowledge within which to view the linkage between abuse and neglect and juvenile delinquency. To be interested only in the linkage between abuse, neglect, and juvenile delinquency is to hold a perspective which is too narrow. This discussion will consider many of the problems that different children and youth have that are related to similar types of family environment. Using this broader framework, the section concludes by identifying a number of areas of critical concern about which there is little knowledge.

PART I: REVIEW AND ASSESSMENT OF THE LITERATURE

Historical Link Between Child Abuse, Neglect, and the Juvenile Justice System

The link between child abuse, neglect, and the juvenile justice system first started to be forged with the rise of houses of refuge in the middle 1820's and was completed in 1899 with the establishment of the first juvenile court in Illinois. The close connections, historically, between these problems and the juvenile justice system, clearly provide a de facto basis for jurisdiction of OJJDP over neglected and abused children.

Houses of refuge emerged as the new nation began to experience urban-industrial growth (see 31, 25, 38). The economy was shifting from mercantile to industrial capitalism. The shift would have a profound effect on family life in America. During the colonial period, families were self-contained economic and social units. Parents had clear guidelines for childrearing. Children were viewed as sinful beings who were to be made over into adults as quickly as possible (39, chap. 1; 37; 11, pp. 131-144; 25, pp. 12-20). Children were to be disciplined by harsh methods. Because they were seen as property, there was little concern over their physical or emotional well-being. Parents who were unwilling or unable to train their children had them placed in other families for "proper" discipline and training.

With urban-industrial growth in the Jacksonian Period, the pace of immigration quickened. Large numbers of Irish and German Catholics came to America's shores, bringing with them lifestyles that were offensive to predominantly Protestant aristocracy (see, for example, 24). A new class of persons appeared in American society--the urban poor. These people came to be called the "dangerous classes" because they threatened the traditional American institutions of the church and family. Family life in the "dangerous classes" was thought to be lax and undisciplined. The parents were supposedly either unwilling or unable to rear and discipline their children in conformance with colonial childrearing techniques. Their children, wandering aimlessly on city streets, came to be a common sight. Concern grew over the plight of these neglected children and the inability of their families to rear them properly (see, for example, 7).

Neglect statutes and the rise of houses of refuge were a direct response to these concerns (36). Although these institutions were originally privately endowed, they soon became public institutions. Hence, first signs of State intervention and a link between the juvenile justice system and neglected children began to emerge. State neglect statutes soon began to provide houses of refuge with the legal authority to intervene in neglectful and abusive home situations and transplant children into a well controlled and disciplined environment for "proper upbringing." Although the constitutionality of the early neglect statutes was challenged, the laws prevailed for many decades, and the States made little or no distinction between neglected and delinquent children. Both were confined in houses of refuge, and behavior patterns of neglected children were seen as a prelude to juvenile delinquency (36, p. 311).

The link between child abuse and neglect and the juvenile justice system, which is the basis for present processing of these children through the courts, was forged with the creation of the juvenile court in 1899. The juvenile court institutionalized the concept of legal immaturity of children and the weakness of the family to function adequately in this area (34, p. 12). For the first time, a special court was created to process not only delinquent youth, but neglected and dependent children as well. These children could be referred to the court by "any reputable person" (34, p. 14).

The establishment of the juvenile court represented an extension of the power of the State to intervene into situations of family breakdown and to take neglected and dependent children out of these disorganized families and place them into well-regulated institutional settings (36). On at least one very important level, there is a significant link between the juvenile justice system and abused and neglected children. It is a link that was created by the State itself. While the de facto nature of the link does not necessarily justify its continued recognition as a valid basis for policy formulation, the reality of its impact on both abused and neglected children and juvenile justice system operations cannot be denied or overlooked.

With this point in mind, this paper will seek further to determine whether there exists a clearer theoretical rationale for such linkage. The next section examines the empirical evidence available concerning the link between child abuse, neglect, and juvenile delinquency.

Empirical Studies of the Link Between Child Abuse, Neglect, and Juvenile Delinquency

In this section, evidence will be presented on the linkage between child abuse, neglect, and juvenile delinquency. The reader should keep in mind the distinction between the phenomenon of juvenile delinquency and the adjudication of a youth as a juvenile delinquent. The two come about by different processes. The former involves delinquent behavior, while the latter involves the decision-making of officials at key points in the juvenile justice system. The evidence reviewed here will focus on the phenomenon and query whether there is any possible causal link between child abuse or neglect and delinquency. The next section will be concerned with evidence bearing on the adjudication process.

Because the studies reported in this section vary greatly in terms of their design and how they were actually conducted, they have been grouped into the following categories. The first discussion deals with studies that give some idea of the strength or magnitude of the relationship between child abuse, neglect, and juvenile delinquency. The second discussion is of studies that compare delinquents with nondelinquents to determine the incidence of abuse and/or neglect in the backgrounds of the two groups. Third, studies will be discussed that do not use control groups (nondelinquents), but which do compare different types of delinquents to determine the incidence of abuse and neglect in their backgrounds. Finally, clinical evidence reported in studies conducted by psychiatrists dealing primarily with the problem of child or adolescent homicide will be discussed. Though no one study reviewed is conclusive, taken together they form a fairly consistent picture; that is, they point in the direction of a considerable link between abuse, neglect, and juvenile delinquency. Our attention will now focus upon the first group of studies which report evidence on the magnitude of the overall relationship between abuse, neglect, and delinquency.

Strength of the Overall Link

There are four studies reporting evidence on the strength of the overall link between child abuse, neglect, and juvenile delinquency. Two of them use very large samples of children. Hence, their findings have a stronger basis for reliable generalization. Both studies seem to point to a substantial relationship between child abuse, neglect, and juvenile delinquency.

The first study to be reported was conducted by the New York State Assembly Select Committee on Child Abuse in 1973 (35). The Director of the project was Jose Alfaro. Two samples were selected from each of eight counties in the State. The first sample consisted of all cases of abuse or neglect that were referred to all public and private child protective agencies in 1952 and 1953. Each case was traced over a 20-year period to determine the number of juvenile court contacts which each child might subsequently have had. The records of probation intake departments and juvenile courts in the eight counties were examined to determine which of the cases had had later contact.

The second sample consisted of all cases that had been referred to probation intake departments and juvenile courts of the eight study counties during 1971 and 1972. Each case was then traced backward over a 20-year period to determine whether there had been prior referral to a public or private child protective agency for abuse or neglect. There was no overlap between the two samples.

In the first sample, a total of 4,465 children and youth had been referred to child protective agencies or juvenile courts in 1952 and 1953 for possible abuse or neglect. These children came from 1,423 different families and had a total of 835 siblings who had not had any contact with child protection agencies. After tracing each of the suspected cases of abuse or neglect, Alfaro found that a total of 740 children had had at least one subsequent contact with the juvenile court for delinquency (status offenses). Of the abused or neglected group, then, 17.2 percent went on to have subsequent juvenile court contacts (35, Appendix B, Table 1).* There was considerable variation from county to county in the percent of abused or neglected children who had subsequent juvenile court contacts. The percentages ranged from 8.7 percent in Broome County to 29.5 percent in Monroe County. In short, Alfaro found evidence of a link between child abuse, neglect, and juvenile delinquency in the 1950's sample; however, the link was not substantiated as indicated by 83 percent of the juveniles not becoming involved with the juvenile justice system.

In the 1970's sample, Alfaro also found a link between child abuse, neglect, and delinquency. He found that 1,963 children had been referred to juvenile courts during 1971 and 1972. Tracing these cases backwards, he found that 447 had had prior contact with child protection agencies in the eight counties. In other words, 22.8 percent of the children had been reported earlier for child abuse or neglect.* As in the 1950's sample, the percentages varied from county to county, with a low of 8.6 percent in Suffolk County and a high of 40.4 percent in Monroe County.

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*It should be noted that the figure of 17.2 percent is based on N=4,301, not 4,465 reported by Alfaro on p. 4.

Though there were some problems with the technical methodology used in Alfaro's study, the findings still present strong evidence pointing in the direction of a link between abuse or neglect and subsequent delinquency. The great virtue of his study is that the time-order of the two factors is clear. In each of the samples, abuse and neglect preceded juvenile delinquency.

The second study, also based on a large number of children, was conducted in Arizona (6). The investigators selected a sample of 5,392 children who had been referred to the Arizona State Department of Economic Security for child abuse or neglect. The time period in which the cases were referred was not indicated. Out of the total number of cases, Bolton and his associates found that 873 or 16.2 percent had been referred to the juvenile court.** Again, the evidence indicates a substantial link between abuse and neglect and subsequent delinquency.

Both studies reported above used very similar measures of abuse or neglect and juvenile delinquency, and hence even greater confidence can be placed in their findings.

Two other smaller studies also reported on the relationship between abuse and neglect and subsequent delinquency. One study in Texas looked into the backgrounds of 50 youth who had been referred to the Central Texas Youth Services Bureau and found that 29 percent of the referrals revealed evidence of abuse or neglect in their backgrounds (51). The other study reported findings based on 60 female delinquents who had been committed to the Arkansas State Training School for Girls in February 1977 (33). Each of the girls completed a questionnaire designed to determine the extent of physical abuse in their background. It was discovered that fully 86 percent of the girls reported being disciplined through physical means. Of these, 13 percent reported that parents used their hands only in disciplining them; 23 percent reported being disciplined by means of hands and belts; and 52 percent indicated that parents used both objects and their hands to discipline them. The objects included belts, pots, sticks, cords, and knives.

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*Alfaro did not report the overall percentage of the 1970's sample. The figure of 22.8 percent was derived from Table IV, p. 52, by converting percentages into frequencies (using the base of 1,963) to arrive at the total number of children who were delinquent or status offenders.

**The researchers did not report an overall percentage. The figure of 16.2 percent was calculated on the basis of 873 cases of delinquency out of a total of 5,392.

While these two studies are considerably smaller in scope than the two discussed previously, they also point in the same direction. Taken together, all four studies indicate a legitimate association between abuse or neglect and juvenile delinquency.

At this point, it might be worthwhile to question whether the same conclusions could have been drawn had the studies utilized control groups, i.e., nondelinquents or nonabused/neglected children, so that the incidence of abuse or neglect could have been compared between the two groups. This question is at least partially addressed by the evidence reported in the following group of studies.

Incidence of Abuse and Neglect Among Delinquents and Nondelinquents

In the literature search, only two studies were found that utilized control groups of nondelinquents for comparison purposes. Although the two studies differ greatly in scope, each found that the delinquents revealed a greater incidence of abuse or neglect than the nondelinquents.

The first of these studies represents one of the major pieces of research in the history of American criminology. It was conducted by Sheldon and Eleanor Glueck of the Harvard University Law School (20). They selected a group of 500 delinquent boys from Massachusetts' two juvenile institutions and a group of 500 nondelinquent boys. The two groups were matched, pair by pair, in terms of age, race, I.Q., and neighborhood of residence. Matching the pairs according to neighborhoods ensured not only that each member of the pair was of similar socioeconomic background, but also that their families resided in areas with similar rates of juvenile delinquency.

The Gluecks compiled extensive social and family histories for each of the 1,000 boys. A major focus of their inquiry was the family. They gathered information on a variety of factors related to the adequacy of the family to care for the boy. Included were such items of information as the alcoholism of parents, their mental and emotional impairment, whether or not the child was born out of wedlock, whether one or both biological parents were present in the home, the presence of step-parents, and the extent of common-law marriages. Information was gathered from agency records and supplemented by personal interviews with parents.

It was found that the families of delinquent boys were known to twice as many social agencies as the families of nondelinquents (20, p. 103). They reported that alcoholism, emotional and mental impairment, and criminality of the parents were all reasons for referral to social agencies of cases of child abuse or neglect. Specifically, they observed that:

> The various types of social services rendered these families ran almost the entire gamut of social work, the families of delinquents requiring much more propping up than those in which non-delinquents grew up. Four in five (80.4 percent) of the families of the former compared with one in two (47.6 percent) of those of the latter required help toward the solution of domestic difficulties...In like ratio (84.6 percent and 44 percent), also, the delinquents' and non-delinquents' families needed help in stituations stemming from the neglect and abuse of their children.
>
> ...As regards services from agencies dealing with problems of mental health, there is again evident a far greater need on the part of families of the delinquents than of the non-delinquents; for in no fewer than 69.2 percent of the former, compared with 19 percent of the latter, did one or more members receive care in psychiatric clinics or in mental hospitals, schools for the feeble-minded, and so on.
>
> ...[O]ne in four (25.4 percent) of the families of delinquents and less than one in ten (9 percent) of those of the non-delinquents had the assistance of agencies giving advice and help in the solution of vocational and employment problems.
>
> [Referring to the reasons for financial assistance], inadequacy of income stemming from economic depression and seasonal unemployment was the major reason for supplemental support in the majority of the families of the non-delinquents (59.1 percent) needing aid, as compared with 38.9 percent of the families of the delinquents. By contrast, unwillingness of the breadwinner to assume his responsibilities was the chief reason for the resort to outside aid among the families of the delinquents (45.5 percent to 25.1 percent). (Emphasis and brackets added.) (20, pp. 103-105)

To summarize, the Gluecks found that the families of delinquent boys were multi-problem families and were well known to the various social agencies in the Greater Boston area. They found that twice as many families of delinquents (86 percent) had contacts with agencies because of the abuse or neglect of their children, as compared with the families of nondelinquents (44 percent).

The second study matched 109 delinquents with 109 nondelinquents in terms of age, sex, race and socioeconomic status (28). The delinquents had been referred to the New Haven (Connecticut) juvenile court, while the nondelinquents were selected from the New Haven area. The investigators then went to the files of the major general hospital serving most of the working class population in the New Haven community to determine how frequently the children had required hospital services for reasons of child abuse. They found that 8.6 percent of the delinquents, as compared with only 1 percent of the nondelinquents, had used the hospital services for the specific reason of child abuse (28, p. 666). The difference was statistically significant. They also found that 35.9 percent of the delinquents, compared to 21.6 percent of the nondelinquents, required hospital services for head and face traumas which are instances of possible child abuse.

Another aspect of this study also shed some light on the types of families from which delinquents came (28). They compared the parents of delinquents with a large random sample of adults from the New Haven community and found that the parents of delinquents had received more frequent inpatient treatment at the State hospitals, had received more frequent outpatient treatment at the community mental health clinic, and that a greater percentage had criminal records in their backgrounds.

The two studies discussed in this section indicate that the link between abuse, neglect, and juvenile delinquency continues to be evident even under more stringent conditions of analysis (i.e., using control groups of nondelinquents). At the very least, these studies seem to indicate that delinquents are more likely to be abused or neglected than nondelinquents.

Given the evidence of a general linkage which was discussed above, a further level of analytic interest is the question as to whether abused and neglected delinquents differ in terms of the types of delinquencies in which they engage. The next group of studies provides some evidence to address this particular question.

Incidence of Abuse and Neglect Among Different Types of Delinquents

There are two major studies providing comparative information on the types of behaviors of abused and neglected delinquents. One is by Alfaro, which has already been discussed in connection with the overall linkage. The other study has been reported by Richard Jenkins, a psychiatrist (26).

Jenkins' study was based on 1,500 cases that had been referred to the Institute for Juvenile Research (a mental health clinic for children in Chicago). He classified the children into three categories based on the behaviors for which they had been referred to the clinic. Two of the three groups had been referred by the juvenile court. The first group consisted of 445 delinquents who had been referred for aggressive and assaultive delinquencies. Jenkins called this group unsocialized aggressives. The second group consisted of 231 delinquents who had engaged in property crimes, mainly with their peers. Jenkins called this group socialized delinquents.

He then looked into the family backgrounds of the two groups and found that the unsocialized aggressive delinquents came from families that were punitive, rejecting, and used extreme measures of physical punishment. The parents were also found to be inconsistent in disciplining their children, and were found to be highly critical and deprecatory toward them. Families of socialized delinquents tended to be poorer, larger, and neglectful. There were frequent indications of parental alcoholism, promiscuity, and other forms of irresponsible behavior.

Although Jenkins did not report exact percentages of each group coming from a particular type of family environment, his statistical procedures revealed high correlations between the two behavioral syndromes and the two configurations of family environment. The evidence indicates that aggressive or assaultive delinquents tend to be drawn from punitive and rejecting family environments, whereas "group" delinquents tend to be drawn from larger, impoverished families where the children are neglected.

Alfaro's study reports specific evidence directly related to the question of whether abused and neglected delinquents are more likely to commit crimes involving aggression and violence than nonabused and neglected delinquents. After classifying delinquents from the 1970's sample into two groups, abused/neglected and nonabused/neglected, he found that 25.8 percent of the abused and neglected delinquents had committed crimes involving violence, while 21.3 percent of the nonabused and neglected group had committed crimes of violence* (35, p. 57). Although Alfaro did not determine the statistical significance, it is likely the difference between the two groups is significant because of the large number of cases involved in his sample.

While the evidence is by no means conclusive, it again adds weight to the evidence of a link between abuse, neglect, and juvenile delinquency. In this instance, it appears that, to some extent at least, abused and neglected delinquents are more likely to commit crimes involving violence than delinquents who are not abused or neglected.

The final group of studies to be examined expands upon the theme of the linkage between abuse and neglect and a greater propensity for violence. These studies are case histories of violent children and adolescents that have been reported by psychiatrists.

Clinical Evidence of Link Between Child Abuse and Neglect and Violence

There are three groups of studies that will be reported in this section. The first deals with abused and neglected adolescents who attempted or succeeded in killing a parent. The second group of studies examines the background of offenders with prolonged histories of violence. The third group of studies deals with children who are violent not only toward others but also toward themselves. Each set of studies reaffirms what has been seen throughout this entire section: that there is a substantial association between child abuse, neglect, and juvenile delinquency.

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*Data from Table XIX have been recomputed. Total N for abused and neglected delinquents is 559. Number of violent abused and neglected delinquents is 114. Total N for nonabused and neglected delinquents is 2,404. Number of violent nonabused and neglected delinquents is 512.

The first group of studies focused on the family environment of adolescents who either threatened or succeeded in killing a parent (5, 14, 15, 27, 41, 44, 46, 49). The case histories reveal family environments full of turmoil, brutal fights between parents, physical abuse of the children, inconsistent handling of the children, and episodic desertion. Drinking by parents was a serious problem leading to unpredictable mood swings and physical violence. The studies show that there was a history of child abuse which increased in intensity with the onset of adolescence and became extremely cruel during the weeks or months immediately preceding the killing.

The second group of studies examined the childrearing practices and socialization of offenders convicted of first-degree murder and those who are habitually violent (3). They found that when these offenders were being reared as children, they had been victims of remorseless physical brutality at the hands of their parents. Physical brutality was a constant experience in their lives and went far beyond the ordinary excuses of discipline that had been perpetrated on them. One study found that in 53 percent of the cases, the parents of 62 habitually violent offenders engaged in physical combat between themselves (3). At times, the children were beaten so severely that neighbors felt compelled to intercede on behalf of the child. These are extreme cases, but they make the point that violence breeds violence.

The final group of studies reveals that child abuse and neglect also is linked with violence directed toward one's self. One study compared the extent of self-destructive behavior in three groups of children between 5 and 13 years of age (22). The first group consisted of 60 "founded" (verified) cases of physically abused children referred to the New York City Bureau of Child Welfare. The second group consisted of 30 "founded" cases of neglected children who had been referred to the New York Family Court, and the third group consisted of 30 children who had been randomly selected from the pediatric outpatient clinic at Kings County Hospital. A psychiatrist or psychiatric social worker interviewed the mothers or female guardians of each child to determine the extent and the forms of self-destructive behavior. It was found that 40.6 percent of the physically abused children engaged in self-mutilative and self-destructive behavior, as compared with 17.2 percent of the neglected children and 6.7 percent of the control group. These and other studies (40) report the effects of physical abuse at a very early age. The effects are seen in child assaultiveness and aggression toward objects, animals, siblings, and self.

Summary of Empirical Studies

At this point, it would be well to summarize the implications of the studies that have been reviewed. First, though no one study is conclusive, much of the evidence points in the direction that there exists a significant link between abuse, neglect, and juvenile delinquency. The studies are not without their limitations, but even with them they all point in the same direction in relation to the linkage question.

Even with this point in mind, however, it would be a serious mistake to limit the question of linkage to the narrow focus of whether abuse and neglect is related to later delinquency. To do so would miss a most important implication flowing from all of the studies. Invariably, they portray an extremely impoverished family environment in which abuse, neglect, delinquency, and other forms of juvenile problem behavior are bred. Certain types of family environments breed a wide variety of child and youth problems. This point will be further developed in the discussion to follow. For now, however, it should be noted that although the evidence reveals a link between abuse, neglect, and juvenile delinquency, the evidence also reveals a consistent family context from which these individuals evolve.

Before moving on to a discussion of this point, there is one additional level at which the link between abuse, neglect, and delinquency should be examined. This level deals with the relationship between the processing of abused and neglected children through the juvenile justice system and their resultant adjudication as delinquents or status offenders. What happens to abused or neglected children who are processed through the system? Are they processed differently than other types of youth who have been referred to the juvenile court? This level of the linkage will now be discussed.

The Juvenile Justice System in Relation to the Linkage Between Abuse, Neglect, and Juvenile Delinquency

Often, children who are abused or neglected can be and are adjudicated as delinquents or status offenders because of the policies and decisions of juvenile justice officials at key points in the system. In this section, the focus will be on empirical evidence related to the decision-making of juvenile justice officials in adjudicating abused or neglected children. The interest is not in the causal link between abuse, neglect, and subsequent delinquent behavior. Rather, the purpose here is to review how abused and neglected children are processed through the system and how the system impacts upon them. The empirical evidence will be examined in relation to two aspects of the linkage at this level. First, the available evidence on the adjudication of abused or neglected children as status offenders will be examined. Second, the evidence as it relates to the disposition of abuse and neglect cases will be examined.

Transforming Abused and Neglected Children into Status Offenders

The most important aspect of this link is the labeling and adjudication of abused and neglected children as status offenders. Although most abused and neglected children are referred to the juvenile court because they are victims, they leave the system being defined as offenders.

The process begins with the police. Even though child protective services are legally mandated to receive and process abuse and neglect cases, a very high proportion of the total number of abuse and neglect cases are referred to and investigated by the police.

In Cook County, Illinois, for example, 40 percent of all abuse and neglect cases in 1976 were referred to the Chicago Police Department and investigated by them (8, p. 5). The cases were referred not only by private citizens, but also by professionals (e.g., physicians and hospitals).

The police filed petitions on a very high proportion of the cases that they investigated. On the basis of cases reported to the National Clearinghouse for Child Neglect and Abuse from Arizona, Montana, North Carolina, and Texas, it was observed that the police "filed on" 70 percent of the cases they investigated (23).

Once the decision to file a petition has been made, the case is forwarded to probation intake. At this point, determinations are made concerning whether to label and process the child, or deal with the case informally. One recent study compared the decisions that were made with respect to neglected and non-neglected children who had been referred to probation intake for possible "status offenses" (1). The study was based on 234 children referred from New York County and 126 cases referred from Rockland County, New York. All the cases were processed during 1972. Of the total number of 360 cases, the researchers found that 34 percent were clearly cases of neglect. Males and females were almost equally represented in this group, but there was a disproportionate number of nonwhites represented and a very large proportion coming from single-parent homes (1, p. 74).

The intake departments filed petitions for being a "status offender" in 75 percent of the cases of neglected youth, but in only 53 percent of the cases of non-neglected youth. Furthermore, it was found that the charges brought against these youth were invariably related to their attempts to avoid the abuse and neglect they received at home. For example, a disproportionately large number of complaints made against them were "keeping late hours," "having an objectionable boyfriend," "associating with companions objectionable to parents," "avoiding their homes until late hours," and other allegations which reflected conflict with parents and other adults (1, p. 75). Once the decision to file the petition was made, the neglected children were found more likely than the non-neglected youth to be confined in detention facilities until the juvenile court hearing. At the juvenile court hearing, the study reported, neglected youth who had been charged with ungovernability or needing supervision were far more likely to be formally adjudicated as status offenders than non-neglected youth.

From these findings, a significant pattern of system reaction emerges. Neglected children, once they reach the adolescent stage and react to their environmental conditions through avoidance behavior, are more likely to be labeled as status offenders if they are referred to juvenile court. Nowhere is this transformation seen more clearly than in the case of children who run away from home.

Abuse, Neglect, Running Away from Home, and Being Labeled a Status Offender

There have been three periods during the present century when large numbers of adolescents have run away from home (29). These are the Great Depression, World War II, and the "flower child" era of the 1960's. During each of these periods, the nuclear family has experienced severe disruptions that resulted in an abrupt rise in this type of adolescent behavior. During the Depression, there were serious economic strains placed on the family; during World War II, the absence of fathers and the employment of mothers resulted in severe family disruptions; during the recent "flower child" era, the civil rights movement, the war in Vietnam, and urban disorder again placed strains on the family.

The phenomenon of running away from home has long been associated with having problems at home. Children and youth--especially the latter--often run away from home because they perceive their family as abusive or neglectful. However, not all children run away from home because of problems; some do so because they seek adventure. But in the majority of cases, it has been shown that runaways are abused and neglected (17). Most of the evidence from available studies clearly indicates that abusive or neglectful family environments induce many adolescents to leave home without informing their parents.

However, the decision to leave home frequently results in the juvenile coming into contact with the police and being referred to the juvenile court as a runaway. A recent survey of six States found that runaways comprised a very large percentage (40 percent) of the cases of status offense referred to intake departments (34, p. 95). Once in intake, runaways are more likely to be confined in detention and more likely to have "status offense" petitions filed against them resulting in a juvenile court hearing (34, p. 117).

One of the earliest studies of family environments of runaway youth was conducted by a graduate student who disguised himself as a vagrant and "hit the road" (33). This researcher studied 1,465 youth who had run away from home. He compiled 500 case histories of runaways based on his interviews on the road. Ninety-seven percent of the 500 were teenage males; 65 percent came from broken homes. In half of these cases, one or both of the parents were deceased. Approximately 25 percent reported that they suffered frequent beatings at home (32, pp. 247-253).

Another early study was based on 660 male runaways arraigned in the Children's Court of New York City (2). The researcher found that many of the runaways came from low income families where the mother was frequently employed. More than half the boys came from broken families, and 70 percent reported that they had run away from home because of trouble at home. The researcher concluded that running away was a result of a youth's inability to cope with "irresponsible" and "unfit" parents.

A third study was based on a sample of 575 runaway cases taken from the reports of the Detroit Police Department (2, pp. 335-343). The youth were reported missing by their parents or guardians. Police interviews with parents and runaways (after returning) were the source of information for determining the reason for running away. In total, there were 317 reasons given for running away revolving around home conditions. Of these, 51.1 percent had to do with conditions reflecting inadequate shelter, inadequate parenting, or actual abuse and neglect (2, p. 340).

The most comprehensive study to date reports that between 3.6 percent and 7.1 percent of the total youth population are missing from home for periods longer than eight hours (4). For periods of

24 hours or longer, the figures vary between 1.8 percent and 3.8 percent. The large percentage of these youth run from stressful family situations (4, pp. 2-4).

To summarize, the evidence from these studies, taken together, forms a fairly consistent picture of large numbers of teenagers and preteenagers who attempt to escape from abusive and neglectful family environments by seeking safety and security outside the family. Runaway shelters report a high percentage of their clients as being abused or neglected by their families (17, p. 16). Information from these studies indicates that standard practice for juvenile court is to adjudicate runaways as status offenders. Once the abused or neglected youth is adjudicated as a status offender, he or she is denied certain types of social services outside the justice system. Nowhere is the link between the processing of abused and neglected children and the assignment of an administrative label (status offender) more clearly seen than in the case of youth who are attempting to avoid an abusive or neglectful family environment. To complicate the situation, the juvenile courts either return these children to their abusive family environments or place them in institutional settings.

Disposition of Abused, Neglected, Adjudicated Status Offenders

The disposition of abused and neglected youth who have been adjudicated as delinquents or status offenders appears to take another ironic turn. Status offenders who have been neglected are far more likely than non-neglected status offenders to be placed in an institutional setting. For example, Andrews and Cohn found that 59 percent of the neglected status offenders, as compared to 44 percent of the non-neglected status offenders, were placed under some sort of regulatory control (1, p. 76). Within these two groups, of those who were committed to juvenile training schools (secure institutions for delinquents), all were neglected youth; of those placed in private institutions, 78 percent were neglected youth; and of those sent to the Division of Youth Camps, 50 percent were neglected youth (1, p. 76).

To make this outcome more severe, abused and neglected youth adjudicated as delinquents or status offenders tend to spend considerably more time in the system as compared with children who have been adjudicated delinquents. Recent evidence indicates that abused and neglected children who were also delinquents or status offenders spent on the average almost twice as much time in the system as the other two groups (35).

Officials of the juvenile justice system do not have--or do not use--any other viable alternatives available to them. They take the pragmatic approach of filing status offense petitions against abused and neglected children and youth, rather than filing complaints against their parents, since the latter are more difficult and costly to prove. At the same time, the situation is likely not improved for the abused or neglected youth by being labeled and placed in juvenile institutions. Furthermore, these placements do not relieve the underlying problems of abuse and neglect for these youth. Judging from recent accounts of pervasive institutional abuse and neglect, the problem is very likely to be further complicated (53). To be a victim of abuse and neglect at home, and then to become a victim of institutional abuse and neglect, is a clear case of double jeopardy. Some indication of the impact the system has upon these children is revealed by the fact that neglected youth who were labeled as status offenders tend to have a higher recidivism rate than the non-neglected status offenders (1, p. 75).

Summary

In this section, research findings are presented which shed some light on the link between abuse and neglect and the official labeling process. The evidence clearly indicates that a link exists between the formal processing of abused and neglected children and subsequent adjudication of them as delinquents. This is especially evident for status offenders. As discussed above, abused and neglected children are more likely to penetrate the juvenile justice system more deeply and are more likely to be placed in institutional settings. It should now be clear that a link between abuse and neglect and the labeling process can be substantiated. It should be emphasized again, however, that to focus exclusively on this linkage is to miss the underlying theme running through all of the evidence; namely, that abused and neglected children labeled as delinquents or status offenders come from certain types of family environment.

Gaps in Our Knowledge and Perspective

The single major underlying theme that runs through all of the evidence reported in the two prior sections is that abused and neglected children and youth who become delinquents, or who are labeled delinquent, come from similar types of family environments. These environments impact upon these children and youth by manifesting other types of problems such as mental disorders, suicide, and underachievement in school. Prior sociological research has indicated that such families tend to be concentrated in certain sections of our urban communities (see, for example, 9, 16, 42, 50). In addition, these areas have the highest rates for suicide, delinquency, crime, and mental disorders. The concentration of social problems exists today in these areas. The family environments described by the Gluecks more than 30 years ago are highly similar to the environments which characterize the families in the Alfaro study. Both the 1950's and 1970's samples indicated that abused and neglected children who were ungovernable or delinquent came from families who had a range of other problems (35, p. 97). The demographic characteristics of these families geographically depict the aggravated conditions of families under stress or in crisis.

Legal and administrative labels applied to these problems are more descriptive of administrative realities than of the problems that exist in the lives of these families and their children. Labels have been created to define jurisdictional boundaries, and perhaps they have been effective in this regard. But the approach to problems of children and youth has been piecemeal and fragmented. A broader perspective of families in crisis is now needed within which to view problems such as child abuse, neglect, and juvenile delinquency. By using a broader framework rather than a narrow and misdirected one, it is possible to identify a number of significant gaps in our knowledge. Eliminating these gaps would go a long way in the direction of providing more efficient and effective services to families and their children.

To summarize our discussion so far, the data suggest that both abused and neglected and delinquent children and youth come from similar family environments; however, not much is known about the day to day interactions that take place in these environments. One can be fairly certain that constellations of child and youth problems are associated with these interactions. Data also indicate that these problem families are large with single parents; however, it must be noted that there is more to the family environment than size or number of parents. There are many families with these two characteristics that are not productive of multi-problem children and youth.

Therefore, the Federal government should broaden its perspective to include the family context of abuse, neglect, and juvenile delinquency. While it is important to demonstrate that a link exists between abuse, neglect, and delinquency, the search must not end there. Abuse, neglect, and juvenile delinquency are products of family environment. There are gaps in our knowledge that should be filled in order to provide a more solid foundation for this approach. Some of these are discussed below.

1. There is a dire need to do more research on violence in the family. The clinical literature reviewed in this paper vividly portrays the impact upon youth who are reared in extremely violent family environments. Violence is perpetrated in an extremely large percentage of families throughout the country (10, 19, 45). It seems likely that it is in the family context that the use of violence is learned and accepted as a "normal" technique for resolving problems and disputes (48). Straus points out that when physical punishment is frequently used in the family, several things can be expected to occur. First, the child learns to do or not to do whatever the punishment is intended to teach. This is obvious. But there are two other important points. One is that the child learns that those who love him or her the most are also the ones who use violence to deal with him and have a right to. The other is that when the problem is really important, the use of physical force is justified (48, p. 21). These are obviously important learning situations for the

child and suggest the great importance of doing research on violence in the family.

Surveys indicate that between 84 percent and 97 percent of all parents use physical punishment at some point in their child's life. There is no information on age-specific rates of the use of particular types of punishment (47). Information on the frequency with which children of different ages are actually hit or treated by other uses of violence is needed. There is evidence to suggest that a surprisingly high rate of physical violence exists for youth well into the teenage years.

Information on age-specific rates of physical punishments would allow us to answer a number of important questions. First, are there class differences in rates of physical punishment for different age groups of children? It might well be the case, for example, that the mid-life crisis of parents noted by Lourie and others (30) is more important for middle-class rather than lower-class parents. This socioeconomic difference could result in higher rates of physical punishment for the adolescent years in middle-class families, and hence account for the relatively high percentage of middle-class youth among the runaway population.

Secondly, what are the characteristics of families that distinguish high and low rates of physical punishment in terms of such factors as social class, race, size, income, and location? How are the sex roles of parents associated with the existence or rates of family violence?

2. Alcoholism is a major social problem in the United States and is associated with a high degree of intra-family and extra-family violence (47, p. 32). At the present time, there is a dispute over whether alcohol causes the family violence or whether family members get drunk in order to obtain implicit permission to act violently. Whichever the case, it does not alter the fact that the use of alcohol and family violence are associated.

Further information is needed on the effect of alcoholism upon parents. If alcoholism is as widespread as indicated by the estimates of alcoholism, then millions of alcoholics are responsible for rearing children. Therefore, the question arises--what kinds of abuse or neglect do children of alcoholic parents receive?

While this information would be extremely difficult to obtain in national surveys using probability samples of households, it would be entirely possible to get detailed information from members of Alcoholics Anonymous as well as from the spouses and children of alcoholics through such organizations as AL-ANON. Members of these and other organizations cut across class and occupational lines, and hence could provide some valuable comparative information. Studies investigating the impact of alcoholism on parents would provide a deeper understanding of its role in producing children with behavior problems. Since the alcoholic parent organizes his or her life around drinking, children of alcoholics are probably denied much of what would be considered normal parental help. How are the sex of the alcoholic parent and the age/sex of the children related to each other? To what extent are class differences associated with agency referral of abused and neglected children of alcoholic parents? It is possible that, because of greater resources, middle-class families are more likely to be able to escape the attention of official agencies, and hence their children are likely to experience more prolonged exposure to alcoholic parenting than lower-class children.

3. Closely related to the problem of alcoholism is the problem of drug abuse and drug addiction. Millions of adults are habituated to various kinds of drugs. What is the effect of regular use of these dangerous substances on parents?

Again, it would be possible to obtain information from those who regularly use these substances from hospitals and clinics where many seek help. What is the effect upon children being reared by parents whose emotions are muted or violent as a result of regular or prolonged drug use?

4. Another gap in our knowledge about these families in crisis is that there is a lack of a coherent profile of these families on the basis of resulting types of child and youth problems. Some information now exists, but it is in diverse sources. There should be research to identify the sources of data that are available, and

efforts should be made to draw this information together. These data sources would provide information on family characteristics in conjunction with child and youth problems. It should be noted in passing that when the Gluecks were compiling the family histories for the 1,000 families in their study, they went to a wide variety of data sources to obtain a complete picture of the family environment.

5. The broader environment of the family is also an important consideration of how the family works internally. Studies of "disorganized" or "high risk" (18) neighborhoods indicate that families with problems live in areas where other families are also struggling with similar problems. As a result, there is a scarcity of resources in relation to the needs and demands for them. These high risk neighborhoods should be identified so that a wide variety of services can be provided to the residents. There is need for research and demonstration programs which can document and evaluate the effect of introducing a wide variety of resources into these neighborhoods (21).

6. The studies cited throughout this paper are almost exclusively cross-sectional, i.e., they present evidence at only one point in time. There is great need for prospective studies that begin with a defined cohort of families or individuals in a given year and follow them over a long period of time, at least until a significant number of children reach their 18th birthday. Cohort studies are entirely feasible and represent the most effective way to gain a clear and comprehensive understanding of different processes taking place over time, since the time-order between variables is clarified in longitudinal studies (see, for example, 52).

PART II: RECOMMENDATIONS

Based upon a review of the literature, the following preliminary recommendations can be made.

1. An operational perspective should be developed that is broader than one focusing solely on the relationship or link between abuse, neglect, and juvenile delinquency. This perspective

should include a concern for families in crisis, as well as neighborhoods in which these families live. The traditional concern of the juvenile justice system has always been neglected and dependent children and youth, as well as those who are delinquent. These youth (abused, neglected, and delinquent) would be better serviced if a broad perspective were used which includes their families as targets.

2. Efforts should be made toward centralizing research and statistical information on families in crisis. As suggested in the previous section, research and programmatic information exists on the characteristics and needs of these families, but it is in diverse sources. Once data sources have been identified, the Federal government should take the initiative in planning and coordinating efforts to centralize data on families in crisis. This effort would require one Federal agency taking the responsibility for coordinating with other government agencies.

3. Research and demonstration programs in regard to youth problems that are consistent with the broader perspective of families in crisis should be supported. Several of these study areas have been identified in this paper.

4. At the same time, child abuse and neglect research should consider juvenile delinquency research issues. In this respect, these research efforts should seek and initiate additional longitudinal studies of cohorts of children and their families over time. This continues to be an important gap in our knowledge of juvenile delinquency as well as abuse and neglect.

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